



W.P.No.14361 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.14361 of 2015

and

MP.No.1 of 2015

The Management,
Dharmapuri District Central Co-operative Bank Ltd.,
Dharmapuri – 636 701.

...Petitioner

Vs.

1. The Joint Commissioner of Labour,
(Appellate Authority under Payment of Gratuity Act 1972),
Coimbatore – 18.
2. The Assistant Commissioner of Labour,
(Controlling Authority under Payment of Gratuity Act 1972),
414, Fourth Floor, Collectorate Building,
Salem – 1.
3. V.Rajan

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records in AGA.No.37 of 2013 on the file of the Joint Commissioner of Labour (Appellate Authority under Payment of Gratuity Act 1972), Coimbatore – 18, the 1st respondent herein, quash the order dated 04.04.2014 passed therein insofar as direction for interest is concerned.



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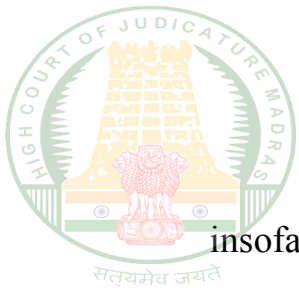
For Petitioner : Mr.P.Anbarasan

For Respondents : Mr.K.Surendran, AGP, for R1 & R2
: Mr.S.Siva Shanmugam, for R3

ORDER

The petitioner has come up with this Writ petition seeking quashment of the order passed by the 1st respondent in AGA.No.37 of 2013 dated 04.04.2014.

2. It is the case of the petitioner that, the 3rd respondent retired from the services of the petitioner on 30.11.2004. While so, around 61 employees along with the 3rd respondent filed petitions before the 2nd respondent seeking payment of gratuity amount and the 3rd respondent's petition was numbered as P.G.No.67 of 2010 and the 2nd respondent, on analysis of the entire materials available before it, passed an common order on 29.08.2012, directing the petitioner to pay gratuity to all the 61 employees. As against the said order, the petitioner an preferred appeal before the Joint Commissioner of Labour, Coimbatore, the 1st respondent herein, who in turn, vide impugned common order dated 04.04.2014 set aside the order passed by the 2nd respondent/Original authority. However,

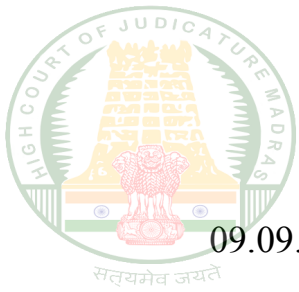


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insofar as the 3rd respondent is concerned, the 1st respondent directed the petitioner to pay interest at the rate of 10%. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned Counsel for the petitioner submitted that, when the irregularities committed by the workman causes loss to the management, it has every rights to withhold the gratuity amount of the said workman. In the present case, there were around 87 surcharge proceedings pending as against the 3rd respondent and thereby, the petitioner bank withheld the Gratuity amount payable to the 3rd respondent, which cannot be said to be erroneous as the same is in compliance of proviso to Section 7(3A) of the Payment of Gratuity Act. Learned counsel further submitted that, even then, pending appeal before the 1st respondent, the petitioner bank paid the gratuity amount to the 3rd respondent on 09.09.2011, for which, the 1st respondent ordered for interest that to at the rate of 10% which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the 3rd respondent/workman submitted that, the 3rd respondent superannuated on 30.11.2004, however, the gratuity amount was paid in his favour only on



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09.09.2011, which is after a period of nearly seven years. Thereby, the 1st respondent/appellate authority directed the petitioner to pay interest for the belated payment at the rate of 10%, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of this Writ petition.

5. On the above said contentions, heard learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents and perused the material available on record.

6. In view of the limited point to be determined in this Writ petition, this Court is not inclined to go into the merits of the arguments advanced by the learned counsel on either side.

7. The petitioner is aggrieved by the award of 10% interest to the 3rd respondent. On a perusal of the impugned award it is evident that, as rightly noted by the 1st respondent/Appellate authority, as per section 7(3A) of the Payment of Gratuity Act, the Gratuity amount should be paid to the employee within a 30 days of a superannuation. For better appreciation, the relevant section is extracted hereunder:-



“ 7. Determination of the amount of gratuity.—*(1) A person who is eligible for payment of gratuity under this Act or any person authorised, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity.*

(2) As soon as gratuity becomes payable, the employer shall, whether an application referred to in sub-section (1) has been made or not, determine the amount of gratuity and give notice in writing to the person to whom the gratuity is payable and also to the controlling authority specifying the amount of gratuity so determined.

1[(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground.]”



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8. In the present case, though the 3rd respondent superannuated as

early as on 30.11.2004, till 09.09.2011 his gratuity amount was not paid.

Considering this aspect, the 1st respondent, vide impugned order had rightly directed the petitioner to pay interest at the rate of 10% from 01.12.2004 to 08.09.2011, in which this Court does not find any infirmity and thereby this Court is not inclined to interfere with the same.

9. For the reason aforesaid, this Writ petition stands dismissed and the petitioner is directed to pay the interest to the 3rd respondent at the rate of 10% per annum as ordered by the 1st respondent from 01.12.2004 till 08.09.2011, less the amount, if any already paid, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous petition is closed.

04.03.2025

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NCC : Yes / No
Index : Yes / No
Speaking order : Yes / No



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