



Writ Petition No.2905 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 08.07.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

Writ Petition No.2905 of 2022
and W.M.P.Nos.3040 and 3042 of 2022

K.484 Punjaikalamangalam Primary
Agricultural Co-operative Credit Society Limited,
Rep. by its President,
Mr.Chinnasamy,
S/o.Muthusamy Gounder,
Punjaikalamangalam,
Ganapathipalayam Post,
Modakurichi Taluk,
Erode District.

...Petitioner

Vs

1.The Competent Authority under Gratuity Act/
Additional Commissioner of Labour,
Coimbatore,
Coimbatore District.

2.The Competent Authority under Payment of Gratuity Act,
Salem, Salem District.

3.S.Govindarajan

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his case No.Gratuity Appeal No.37 of 2021, dated 19.10.2021 and quash the same.



WEB COPY



Writ Petition No.2905 of 2022

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.E.P.Senniyangiri
Government Advocate
for R1 and R2

ORDER

This writ petition has been filed to quash the order passed by the first respondent in Gratuity Appeal Case No.37 of 2021, dated 19.10.2021. Wherein, the 3rd respondent has filed a petition in Gratuity Appeal Case No.37 of 2021 before the Controlling Authority under the Payment of Gratuity Act for the gratuity payable to him and the same was dismissed. Against which, he preferred an appeal before the Appellate Authority, the first respondent and the same was allowed by setting aside the order of controlling authority. Aggrieved by the said order, the management has preferred this writ petition before this Court.

2. The learned counsel appearing for the petitioner would submit that the petitioner Co-operative Society is functioning with the strength of seven employees and the 3rd respondent was working as Secretary and he was retired from service on 30.04.2017 and he was paid the retirement benefits and under the head of gratuity a sum of Rs.4,63,156/-



Writ Petition No.2905 of 2022

was paid. The petitioner's society does not come under the purview of the

WEB.COM

Gratuity Act, which is not applicable to the petitioner's society since only seven persons are working and to attract the provisions of Section 1(3) (b) of Payment of Gratuity Act, minimum number of persons is ten employees. Therefore, the Payment of Gratuity Act will not be applicable to the petitioner's society. The gratuity was paid to the 3rd respondent as per bye-law of the petitioner society. The 3rd respondent after receipt of full and final settlement, once again approached the second respondent on 03.12.2020 claiming additional gratuity to the tune of Rs.3,12,113/- in Gratuity Appeal Case No.37 of 2021 and the same was dismissed by the second respondent. Against which, the 3rd respondent preferred an appeal before the first respondent in Gratuity Appeal Case No.37 of 2021 but the appellate authority erroneously allowed the appeal and directed the petitioner society to pay the difference amount of Rs.3,12,113/- together with 10% interest. Since the Act itself is not applicable to the society, the order passed by the first respondent is erroneous and therefore, the order passed by the first respondent is liable to be quashed.



3. The learned counsel appearing for the respondents 1 and 2

would submit that the petitioner's establishment is covered under the Payment of Gratuity Act and they also paid gratuity amount to the 3rd respondent, thereby, the first respondent passed an order by holding that once the petitioner paid the gratuity, he has to pay the entire gratuity to the third respondent as per the Act. Therefore, the order passed by the Appellate Authority is in order.

4. There is no representation for the 3rd respondent. Heard both sides and perused the materials available on record.

5. In this case, the main contention raised by the learned counsel appearing for the petitioner is that the petitioner's establishment is not covered under the Payment of Gratuity Act and as per Section 1(3) (b) of the Act, if there are more than ten employees, the Act will be applicable for the establishment. In the case on hand, the petitioner's society has only seven employees, however, the petitioner paid gratuity to the 3rd respondent for a sum of Rs.4,63,156/- as per bye-law. This Court also perused the bye-laws submitted by the petitioner and as per the bye-law, the society shall



Writ Petition No.2905 of 2022

WEB COPY

pay gratuity to the employees not exceeding to the maximum amount in accordance with the provisions of the Payment of Gratuity Act, whether or not this Act is applicable to the society. Therefore, even as per bye- law, the third respondent is entitled to gratuity as per the provisions of Payment of Gratuity Act. Therefore, the arguments of the petitioner cannot be accepted and there is no any dispute in respect of the quantum of amount arrived by the Appellate Authority. Once the employees of the society are entitled to gratuity as per the provisions of Payment of Gratuity Act, it is the duty of the petitioner to pay the gratuity as per the Act. The Appellate Authority has arrived the gratuity, as per the Act based on the service rendered by the 3rd respondent. The petitioner has not disputed the number of years served by the 3rd respondent and the calculation made by the first respondent. Therefore, the order passed by the Appellate Authority is to be confirmed.

6. The learned counsel appearing for the petitioner would submit that already the amount of Rs.4,63,156/- was paid and the remaining amount of Rs.3,12,113/- alone has to be paid. He would further submit that the said amount will be paid in four installments in three months. Further during the pendency of the writ petition, they also deposited a sum of



Writ Petition No.2905 of 2022

Rs.1,00,000/-, therefore, after deducting the said amount, they may be permitted to pay the amount of four installments in three months.

7. Therefore, in view of the above said representation made by the learned counsel appearing for the petitioner, this Court is inclined to accept his request and the petitioner is permitted to pay the balance amount of the gratuity, after deducting the amount already paid to the 3rd respondent and to pay the balance amount within a period of three months in four installments.

8. With the above said directions, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.07.2025

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
ub



Writ Petition No.2905 of 2022

WEB COPY

- To
- 1.The Competent Authority under Gratuity Act/
Additional Commissioner of Labour,
Coimbatore,
Coimbatore District.
 - 2.The Competent Authority under Payment of Gratuity Act,
Salem, Salem District.



WEB COPY



Writ Petition No.2905 of 2022

P.DHANABAL , J.

ub

Writ Petition No.2905 of 2022

08.07.2025