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W.P.No.6612 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM :

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

W.P.No.6612 of 2025

V.Paramasivam

...Petitioner

Vs.

1. The Appellate Authority under the Payment of Gratuity Act, 1972
and Deputy Chief Labour Commissioner (Central) Chennai,
No.26, Haddows Road, Shastri Bhavan,
Chennai - 600 006.
2. Controlling Authority under the Payment of Gratuity Act, 1972
and Assistant Labour Commissioner (Central) Chennai,
No.26, Haddows Road, Shastri Bhavan,
Chennai - 600 0060.
3. The General Manager,
MRF Limited,
P.B.No.5285, T.H.Road,
Thiruvottiyur, Chennai - 600 019.

...Respondents

Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of Certiorarified Mandamus to call for the
records pertaining to the impugned order passed by the 1st respondent in
Gratuity Appeal No.49 of 2023, confirming the order of the 2nd respondent
dated 20.12.2022 in Gratuity Application G.A.No.48(31)/2020-B4/B3, and

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set aside the same, and consequently, the 3rd respondent be directed to pay the gratuity amount of Rs.2,60,775/- (Two Lakhs Sixty Thousand Seven Hundred and Seventy five only) along with interest, award costs.

For Petitioner : Mr.P.R.Thiruneelakandan

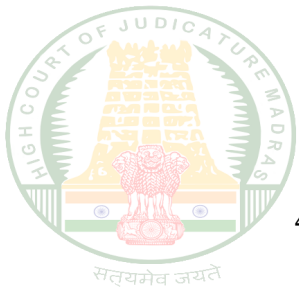
For Respondents : Mr.T.Thirumalaisamy, for R1 & R2

ORDER

This Writ petition has been filed seeking quashment of the order passed by the 1st respondent in Gratuity Appeal No.49 of 2023, confirming the order of the 2nd respondent dated 20.12.2022 in Gratuity Application G.A.No.48(31)/2020-B4/B3 and to consequently direct the 3rd respondent to pay the gratuity amount of Rs.2,60,775/- along with interest, award costs.

2. Mr.T.Thirumalaisamy, learned counsel takes notice on behalf of the 1st and 2nd respondents. In view of the consent expressed by the learned counsel on either side, this Writ petition is taken up for final disposal at the admission stage itself.

3. Since no adverse order is being passed against the 3rd respondent, notice to the 3rd respondent is dispensed with.



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4. The case of the petitioner is that he joined the services of the 3rd respondent as a Helper during 1971. While so, all of a sudden, the 3rd respondent terminated the services of the petitioner on 15.01.1997 based on an exparte enquiry. Aggrieved by the same, the petitioner raised a dispute in I.D.No.616 of 1997. Meanwhile, the petitioner approached this Court for payment of interim salary and this Court had directed the 3rd respondent to pay a sum of Rs.2,750/- every month and the same was paid to the petitioner for the period from January, 2000 to April, 2010. In the meanwhile, the petitioner succeeded in the industrial dispute and the labour court held that the termination of the petitioner was illegal, however, considering the fact that the petitioner had reached the age of superannuation, the Labour court, instead of ordering reinstatement, directed the 3rd respondent to pay a lumpsum of Rs.2,00,000/- as compensation. Thereafter, the petitioner filed a petition before the 2nd respondent/controlling authority seeking gratuity, who in turn, vide order dated 20.12.2022, though held that the petitioner is entitled for gratuity, however, only took a sum of Rs.5,046/- as wages for gratuity and arrived at a sum of Rs.1,13,535/- as gratuity payable to the petitioner. Not satisfied with the same, the petitioner preferred an appeal



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before the 1st respondent/appellate authority, who in turn, vide impugned order dated 27.12.2024 confirmed the order of the 2nd respondent and rejected the appeal filed by the petitioner. Challenging the same, the petitioner has come up with this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. The major contention of the learned counsel for the petitioner is that, the 2nd respondent/Controlling authority ought to have taken a sum of Rs.11,590/- as the last drawn wages payable to the petitioner on the basis of the wages that he would have drawn on the date of superannuation, as per the settlement reached in the year 2009.

7. Having perused the orders passed by the 1st and 2nd respondents, this Court is of the view that the said orders are perfect in order, requiring no interference. It is not the case that the petitioner was sent out empty-handed. On the basis of the order passed by this Court, the petitioner was paid interim

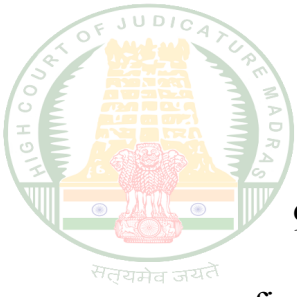


salary for a decade and the Labour court having found that the petitioner had reached the age of superannuation and he could not be reinstated, directed the 3rd respondent management to pay a lumpsum compensation of Rs.2,00,000/- in favour of the petitioner. The petitioner, naturally would have availed other terminal benefits also.

8. Though the petitioner is perfectly justified in making a request for gratuity, however, in respect of the claim of the petitioner to fix the wages at Rs.11,590/- for gratuity is concerned, the same cannot be acceded to for the simple reason that, payment of gratuity is not a *gratis or bounty* and it is payable for the service rendered by the employee. Further, the compensation paid to the petitioner is covered under the definition of Wages under the Act.

For better appreciation, the relevant section is extracted as hereunder:

“(s) "wages" means all emoluments which are earned by an employee while on duty or on leave in accordance with the terms and conditions of his employment and which are paid or are payable to him in cash and includes dearness allowance but does not include any bonus, commission, house rent allowance, overtime wages and any other allowance.”



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9. As observed earlier, the impugned order of the 1st respondent confirming the order of the 2nd respondent quantifying the gratuity payable to the petitioner at Rs.1,13,535/- by fixing the wages at Rs.5,046/- is perfectly justified and thereby, this Court is not inclined to interfere with the same.

10. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous petitions, if any, are closed.

26.02.2025

skt

NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

To:

1. The Appellate Authority under the Payment of Gratuity Act, 1972 and Deputy Chief Labour Commissioner (Central) Chennai, No.26, Haddows Road, Shastri Bhavan, Chennai - 600 006.
2. Controlling Authority under the Payment of Gratuity Act, 1972 and Assistant Labour Commissioner (Central) Chennai, No.26, Haddows Road, Shastri Bhavan, Chennai - 600 0060.

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M.DHANDAPANI, J.

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