



W.P.No.14595 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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and

W.M.P.Nos.14582 & 26827 of 2019

Villupuram District Central Co-operative Bank Ltd.,
Rep. by its Managing Director,
No.2, Hospital Road, Villupuram. ... Petitioner

Vs.

1.Additional Commissioner of Labour,
(Appellate Authority under payment of Gratuity Act),
6th Floor, DMS Compound,
Teynampet, Chennai – 600 006.

2.The Assistant Commissioner of Labour,
(Authority under Payment of Gratuity Act),
Vellore – 1.

3.M.Manokaran ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for records on the file of the 1st respondent relating to the order dated 25.5.2018 in P.G.A.124 of 2017 passed by the first respondent and quash the same.



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For Petitioner : Mr.R.Arumugam

For Respondents : Mr.K.Surendran
Additional Government Pleader
[R1 & R2]
Mr.A.S.Thambusamy [R3]

ORDER

The issue involved in this writ petition lies on a very narrow compass. The issue is whether the gratuity amount can be withheld/denied for an employee citing pendency of a criminal/departmental proceedings.

2. There are humpty number of judgments on the contra.

3. The 3rd respondent was working under the petitioner bank. On the charges that he indulged in misappropriation, he was dismissed from service. The petitioner has launched criminal proceedings and the same is pending before the Judicial Magistrate, Villupuram. In the meanwhile, the 3rd respondent had filed a gratuity application before the 2nd respondent claiming gratuity and the same was rejected. The 3rd respondent took the rejection order on appeal before the 1st respondent. The 1st respondent, vide impugned order, dated 25.05.2018 reversed the



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order passed by the 2nd respondent/controlling authority, directing the petitioner to pay the gratuity of Rs.10,00,000/- with 10% interest.

Challenging the same, the present has been filed.

4. Learned counsel for the petitioner submitted that the 3rd respondent has caused loss to the tune of Rs.42,64,254/- to the petitioner bank, thereby the 2nd respondent has dismissed the gratuity application filed by the 3rd respondent. Without considering the same, the 1st respondent has ordered gratuity in favour of the 3rd respondent, which is wholly unsustainable and the same is liable to be interfered with. Accordingly, he prays for allowing this writ petition.

5. Per contra, learned counsel appearing for the 3rd respondent submitted that the 3rd respondent is now aged about 70 years and the petitioner is liable to pay the gratuity amount of Rs.10,00,000/- as ordered by the 1st respondent and hence, the petitioner is liable to pay the said sum with interest to the 3rd respondent. Further, he submitted that withholding the gratuity amount on the ground of pendency of a criminal/departmental proceedings is wholly unsustainable. Accordingly, he prays for dismissal of this writ petition.



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6. Heard the learned counsel appearing for the parties and also perused the materials available on record.

7. It is settled principle of law that the gratuity payable to the 3rd respondent cannot be withheld by the petitioner/employer except insofar as the reasons specified in sub Sections 6(a) and (b) of Section 4 of the Payment of Gratuity Act and the petitioner is also not entitled to withhold the amount even on the ground of pendency of enquiry or for any other reasons, therefore, the petitioner has no power to withhold the gratuity amount. Further, it is also pertinent to state that under Sec 7(3) of the Act, the employer shall arrange to pay the amount of Gratuity within 30 days from the date it becomes payable. Under sub-section (3) (a) to Section 7, if the amount is not paid by the employer within the period specified, simple interest at such rate, not exceeding the rate notified by the Government from time to time for repayment of long term deposits ought to be paid. In view of the above legal position, I am not inclined to interfere with the impugned order passed by the 1st respondent.



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8. Accordingly, this Writ Petition is dismissed. The petitioner is

direction to settle the gratuity amount of Rs.10,00,000/- with 6% interest from the date of due till realization to the 3rd respondent within a period of twelve (12) weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

21.04.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

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M.DHANDAPANI, J.

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