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W.P.No.7010 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :23.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.7010 of 2024
and W.M.P.No.7827 of 2024

The Management,
Harvest Apostolic Ministries,
Raja Annamalaipuram,
Chennai- 28
Now functioning at
Kala Nikunz, Saraswathy Nagar North,
Neelankarai, Chennai - 41

... Petitioner

VS-

1. The Deputy Commissioner of Labour,
(Additional In charge)
Office of the Joint Commissioner of Labour-2
Chennai-6

2. A. Titus

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in connection with the impugned order passed by the 1st Respondent dated 05.02.2024 in Gratuity case No. 14 of 2024 and quash the same.



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For Petitioner : Mr. D. Muthukumar
for M/s.Paul and Paul

For Respondent-1 : Labour Court

For Respondent-2 : Mr. R. Suresh Kumar
for
M/s.K.M.Vijayan Associates

ORDER

The above Writ petition has been filed by the respondent-Management challenging the order dated 05.02.2024 in Gratuity Case No.14 of 2024.

2. Without going into merits of the case, the ground on which the above writ petition is filed is that, since the petitioner has branches in more than one State, it is only the Central Government which is the appropriate Government. Section 2(a) of the Payment of Gratuity Act states that an establishment has branches in more than one State, the appropriate Government is the Central Government. This fact is also known to the 2nd respondent herein, as he himself, in the legal notice dated 08.07.2022, mentioned that he has branches in Bihar as well as in Chennai.



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3. In support of the argument, the petitioner has relied upon the judgment reported in **2002 1 LLN 1175 [Balsara Hygiene Products Ltd vs Appellate Authority]** which was also a case where the petitioner has branches in more than one State and the orders had been passed by the Appellate authority under the State Government. After extracting various judgments, the learned Judges had held as follows:

“16. Therefore, the legal principle which is established is that if the plea raised goes to the root of the question and concerns inherent lack of jurisdiction of the court deciding the matter, such plea could be allowed to be raised even at a later stage, for it goes to very root of the matter. Such a plea concerning inherent lack of jurisdiction of court to decide the matter could be raised before the High Court in a writ jurisdiction, for the first time, and such a plea is required to be entertained to do justice amongst the parties. On the other hand, if the plea raised concerns lack of territorial or pecuniary jurisdiction, the same could be waived by a party by submitting to its jurisdiction and by not raising at the earlier stage. Therefore, it is necessary to apply the aforesaid settled principles of law to the facts of the present case. In this case, as delineated above, it is



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established that the appropriate Government under the present case is the Central Government as the petitioner-management has branches in more than one State, and not the State Government. The Controlling Authority of the State Government has exercised its jurisdiction in the present case on the basis of the application filed by the respondent No. 2. On an appropriate interpretation of the provisions of S. 2 of the Act it is established that the said authority appointed by the State Government has no jurisdiction to entertain and decide the matter. Therefore, the said authority lacks inherent jurisdiction to entertain and try this case and it is not a case of either want of pecuniary jurisdiction or territorial jurisdiction, which could be waived. Therefore, in the facts of the present case, it is the Controller Authority appointed by the Central Government, who would have jurisdiction to entertain and decide this matter and not the State Government. Consequently, it is also held that the Controller Authority in which the aforesaid application under [S. 4](#) of the Act was filed and by whom it was entertained and a case was instituted on the basis thereof, was entirely lacking in jurisdiction and it was incompetent to try and decide the same.



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Therefore, whatever orders are passed in the said proceeding or in the subsequent proceeding arising out of it, namely in the appeal were null and void as consent of parties could not operate to confer jurisdiction on the said authority, which was incompetent to try the aforesaid proceeding.

17. In my considered opinion, the decisions rendered by the Supreme Court in the cases of [Hira. Lal case \(vide supra\)](#) and [Rattan Lal Sharma](#) [1993 (2) L.L.N. 253] (vide supra), squarely apply to the facts and circumstances of the present case and, therefore, following the ratio of the aforesaid decisions, the writ petition is allowed and the impugned orders of the Appellate Authority as also of the Controlling Authority are set aside and quashed."

*4. Similar orders have been passed by the Bombay High Court reported in 2005 (3) L.L.N.977 [**Rhone Poulenc (India) Ltd Vs Anjali Devrukhar and Others**], the Calcutta High Court reported in 2005 SCC Online Cal 341 [**Indo American Electricals Ltd and Others Vs. State of West Bengal and Others**] and the Karnataka High Court reported in 1980 SCC Online Kar 167 [**Binny Ltd Vs Commissioner of Labour and Others**].*



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5.Considering the fact that the impugned order passed by the 1st respondent lacks jurisdiction in the light of Section 2(a) of the Payment of Gratuity Act, the impugned order is set aside. Accordingly, this Writ Petition is allowed. The respondent-workman is permitted to move the appropriate authority under Section 2(a) of the Act. The learned counsel for the petitioner-Management has taken a plea that the application has been filed after a delay of 10 years. Therefore, the appropriate authority shall not take into account the period from the date of filing the application before the authority till the date of this order when considering the issue of laches. No costs. Consequently, connected miscellaneous petition is closed.

23.07.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No

srn

To,

The Deputy Commissioner of Labour,
(Additional In charge)

Office of the Joint Commissioner of Labour-2
Chennai-6



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P.T.ASHA, J.,

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