



W.P.No.4760 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.4760 of 2015

TY.SPL. Thirumandurai Primary Agricultural Coop. Credit Society,
Rep. By its President,
S.Selvamani,
S/o.Selvaraj,
Thirumandurai, Kunnam Taluk,
Perambalur District. ... Petitioner

Vs.

1.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Trichy.

2.M.Vijayakumar ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Gratuity No.30 of 2012, dated 13.03.2013 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.K.Surendran
Additional Government Pleader [R1]
No appearance [R2]



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ORDER

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2. The case of the petitioner/management is that, the 2nd respondent/workman was working as Clerk in the petitioner society and without getting any prior permission, he unauthorizedly not attended the duty from 20.11.2008 and hence, as per the bye-law of the petitioner society, if any employee unauthorizedly absent himself from duty for more than two months, then, it is deemed to be that he resigned from his job. Accordingly, the society took steps to find out him for explanation for his unauthorized absent, but the 2nd respondent not co-operate with the petitioner society. When the 2nd respondent not reported duty from 18.11.2008, the petitioner society made attempt to disburse the gratuity amount to the tune of Rs.54,769/-, however, the 2nd respondent refused to receive the same and he demanded that gratuity should be calculated till his retirement date on the basis of his last drawn wages to the tune of Rs.10,145/- p.m., but the society not inclined to disburse the said amount.



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Since he not reported duty from 20.11.2008 till such date the gratuity amount was calculated and ready to pay such amount, but the 2nd respondent filed a claim petition before the 1st respondent seeking gratuity in Gratuity No.30 of 2012 and the 1st respondent passed the impugned order, directing the petitioner society to pay Rs.1,11,205/- together with 10% interest to the 2nd respondent. Challenging the same, the petitioner society has filed the present writ petition before this Court.

3. Learned counsel appearing for the petitioner society submitted that, the 1st respondent had filed to consider that the 2nd respondent did not report for duty from 20.11.2008, hence, he was terminated from service, when the petitioner society keeping the 2nd respondent gratuity amount to the tune of Rs.54,769/- and the same was deposited with LIC and the same was received from the LIC, it is ready to disburse the same to the 2nd respondent, but the 2nd respondent not inclined to receive the same and demanded Rs.1,11,205/- as against bye-law of the petitioner society. Further, he submitted that the 1st respondent failed to consider that the 2nd respondent unauthorizedly absented himself from duty and he was terminated from service with effect from 20.11.2008, hence the gratuity was calculated till such date and the petitioner society was ready



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to disburse the same to the 2nd respondent. Without considering the said aspects, the 1st respondent has passed the impugned order in favour of the 2nd respondent, which is wholly unsustainable and the same is liable to be set aside. Accordingly, he prays for allowing the writ petition.

4. On the above contentions, heard the learned Additional Government Pleader appearing for the 1st respondent and also perused the materials available on record.

5. A perusal of the entire records, including the impugned order reveals that the 2nd respondent joined the petitioner society as a clerk on 08.07.1989 and he worked in the petitioner society till 20.11.2008. Though the petitioner society claims that the 2nd respondent unauthorizedly absented himself from duty and as per bye-law, he is deemed to be resigned from job, however, deemed resignation was not available either in the bye-law or in the Act and Rules. Further, the 2nd respondent claimed gratuity only for the period from 08.07.1989 to 20.11.2008 and not beyond 20.11.2008, thereby, he is entitled to gratuity for the said period. By considering the above aspects, the 1st respondent passed the impugned order in favour of the 2nd respondent, directing the



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petitioner society to pay a sum of Rs.1,11,205/- towards gratuity along with interest at the rate of 10%, which cannot be said to be perverse, illegal or arbitrary. Hence, this writ petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. No costs.

04.03.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Trichy.



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M.DHANDAPANI, J.

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