

W.P.No.15513 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 13.03.2025
PRONOUNCED ON : 23.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No.15513 of 2020
and
W.M.P.No. 19366 of 2020

The Management
MYRADA (Erode Project)
No.272, Perumal Nagar,
Pudhuvallipalayam Post,
Gobichettipalayam,
Erode District.

....Petitioner

Vs.

- 1.A. Gopal (deceased)
2. The Gratuity Appellate Authority /
Additional Commissioner of Labour,
Coimbatore Region,
Dr.Balasundaram Road,
Coimbatore – 641 018.
3. G.Santhi,
W/o. Late A.Gopal,
No.134/27, Pachamalai Nagar,
Modachur Village,
Gopichettipalayam Taluk,
Erode District.



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4. G.Saritha,
D/o. Late A.Gopal,
No.134/27, Pachamalai Nagar,
Modachur Village,
Gopichettypalayam Taluk,
Erode District.

(R3 & R4 are substituted as L.R.s of the deceased
R1, as per order dated 18.12.2023 in W.M.P.No.15197 of 2022
in W.P.No.15513 of 2020) Respondents

Prayer in W.P:

To issue a Writ of Certiorari or any other appropriate Writ Order or Direction in the Nature of a Writ, to call for the Records of the Impugned Order of the 2nd Respondent made in A.G.A.No.39 of 2019 dated 18.07.2020 and quash the same and pass any such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Prayer in WMP:

To stay the operations of the Order of the 2nd Respondent (Appellate Authority) made in A.G.A.No.39 of 2019 dated 18.07.2020, till the disposal of the Writ Petition.

Appearance of Parties:

For Petitioner : Mr.S.Ganesh Babu, Advocate
For Respondent 1 (dead) : ---
For Respondent 2 : Mr.R.Kumaravel, Additional Government Pleader.
For Respondents 3 and 4 : M/s.Balan Haridass and Kamatchi Sundaresan,



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Advocates.

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JUDGMENT

Heard.

2. The Petitioner is a voluntary organization. In the present writ petition, it challenges the order dated 18.07.2020 passed by the 2nd Respondent, the Appellate Authority under the Payment of Gratuity Act, in AGA No. 39 of 2019. By the said order, the Appellate Authority directed the Petitioner to pay a sum of Rs.2,08,186/- towards gratuity to the deceased 1st Respondent, within a period of 30 days, failing which the amount shall carry interest at the rate of 10% per annum from the date on which it became payable until the date of realization. The writ petition was admitted on 03.11.2020, and pending disposal of the same, this Court, by an interim order in the connected WMP, directed the Petitioner to deposit 50% of the awarded amount to the credit of the gratuity appeal before the 2nd Respondent.

3. The Petitioner filed a memo of compliance dated 08.12.2020, stating that a sum of Rs.1,04,063/- had been deposited by way of Demand Draft drawn



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in favour of the 2nd Respondent. Along with the memo, the Petitioner also

furnished the details of the amount so calculated. In the interregnum, the 1st

Respondent, who was employed as a driver in the Petitioner organization,

passed away on 12.02.2022. Consequently, his wife and daughter filed W.M.P.

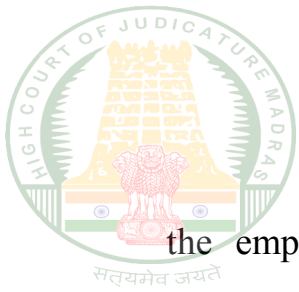
No. 15197 of 2022 seeking to come on record as the legal representatives of

the deceased 1st Respondent. The said application was allowed by order dated

18.12.2023.

4. The 1st Respondent (since deceased) was appointed by the Petitioner Trust as a Driver-cum-Mechanic by an order dated 01.08.2005. The contract of appointment issued to him was periodically renewed. Upon attaining the age of superannuation, i.e., 60 years, the 1st Respondent was informed of his retirement from service. Alleging that gratuity was not paid upon retirement, the 1st Respondent submitted an application before the Assistant Commissioner of Labour, who is the Controlling Authority under the Payment of Gratuity Act, seeking gratuity for his 10 years of service with the Petitioner. The said application was taken on file as P.G. Case No. 18 of 2017, and notice was issued to the Petitioner accordingly.

5. The Petitioner filed a counter statement dated 27.06.2017, wherein



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the employment of the 1st Respondent was admitted. However, it was

contended that a sum of Rs.1,47,571/- had already been paid to the 1st Respondent towards his dues, and that he was also covered under a Group Insurance Scheme applicable to 13 employees. Before the Controlling Authority, the 1st Respondent examined himself as P.W.1 and filed five documents which were marked as Exs.P1 to P5. On behalf of the Petitioner, one Mr. M. Kannan, Accountant, was examined as R.W.1 and three documents were filed, marked as Exs.R1 to R3. By order dated 24.01.2019, the Controlling Authority dismissed the claim petition. The Authority held that the Petitioner organization was engaged in research and development activities in the field of agriculture and that it had provided a Group Insurance Scheme. It further noted that the 1st Respondent had earlier served in another organization and had joined the Petitioner Trust only after resigning from the earlier employment. On that basis, the Authority concluded that the 1st Respondent was not entitled to gratuity.

6. Aggrieved by the dismissal of his gratuity claim by the Controlling Authority, the 1st Respondent preferred an appeal under Section 7(7) of the Payment of Gratuity Act before the 2nd Respondent, Appellate Authority. The appeal was taken on file as AGA No. 39 of 2019. Pursuant to the notice issued,



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the Petitioner filed a counter statement dated 07.08.2019. Upon consideration

of the entire records and submissions, the Appellate Authority allowed the appeal and passed the order referred to earlier. In the said order, the Appellate Authority noted that the Petitioner's witness, R.W.1, had failed to produce any document to establish that 10% of the gratuity amount was deducted under the Group Insurance Scheme or that the gratuity was in fact paid to the 1st Respondent. The Appellate Authority further found that the Petitioner's stand regarding the nature of its activities was inconsistent, and that there was no break in the 1st Respondent's service. It was also held that the various organizations floated by the Petitioner were functionally integrated and could not be treated as separate establishments for the purpose of denying gratuity.

7. Accordingly, the Appellate Authority concluded that the 1st Respondent had rendered continuous service for a period of 11 years and was entitled to gratuity in the sum of Rs.2,08,186/-, calculated on the basis of his last drawn salary of Rs.32,805/-. Even before this Court, the Petitioner reiterated the same contention raised earlier—that the various units operated by them were distinct entities and not functionally integrated. Additionally, they sought to rely on certain receipts purportedly relating to contributions under a pension and group insurance scheme. However, it is pertinent to note that these documents were



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neither produced before the Controlling Authority nor filed before the 2nd

Respondent Appellate Authority.

8. This Court is not inclined to accept the contentions raised for the first time in these proceedings and finds no ground to interfere with the order passed by the 2nd Respondent, Appellate Authority. Although it is asserted that the employees were covered under a compulsory insurance scheme, no exemption order granted by the appropriate Government under Section 4A(2) of the Payment of Gratuity Act has been placed on record. In the absence of such exemption, the said contention cannot be sustained.

9. In view of the foregoing, this Court finds that the writ petition is misconceived and devoid of merit, and it is accordingly dismissed. Consequently, the connected Writ Miscellaneous Petition also stands dismissed. The legal representatives of the deceased 1st Respondent, namely Respondents 3 and 4, are entitled to withdraw the sum of Rs.1,04,063/- deposited by the Petitioner with the 2nd Respondent, and shall also be at liberty to claim the balance amount from the Petitioner in accordance with law. However, there shall be no order as to costs.



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NCC : Yes / No

Index : Yes / No

Internet : Yes / No

DR. A.D. MARIA CLETE, J

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To

The Gratuity Appellate Authority /
Additional Commissioner of Labour,
Coimbatore Region,
Dr.Balasundaram Road,
Coimbatore – 641 018.
(with records)

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and
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