



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.19714 of 2022
and WMP.No.19033 of 2022

Union Bank of India
Central Office
Re. by its General Manager – HR
239, Vidhan Bhavan Marg,
Nariman Point,
Mumbai – 400 021.

... Petitioner

Vs

1.The Deputy Chief Labour Commissioner (Chennai)
Appellate Authority under the Payment of
Gratuity Act, 1972
No.4, Haddows Road,
Shastri Bhavan, Nungambakkam,
Chennai – 600 006.

2.The Assistant Labour Commissioner (Central)
Controlling Authority under the Payment of
Gratuity Act, 1972
No.4, Haddows Road,
Shastri Bhavan, Nungambakkam,
Chennai – 600 006.

3.V.Arunachalam

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in relation to the order dated 15.11.2021 passed by the 2nd respondent in Gratuity Application No.241 of 2019 and confirmed in order dated 06.06.2022 in Gratuity Appeal No.3 of 2022 on the files of the 1st respondent, and quash the same.

For Petitioner : Mrs.Rita Chandrasekar for
M/s.Aiyar and Dolia
Mr.K.Rangesh
For Respondents : Mr.E.P.Senniyangiri, G. A.
for R1 & R2
: Mr.K.M.Ramesh, Senior Counsel for
Mr.V.Subramani, for R3

ORDER

This Writ Petition has been filed to quash the order passed by the second respondent in Gratuity Application No.241 of 2019 dated 15.11.2021 and confirmed by the first respondent in Gratuity Appeal No.3 of 2022 dated 06.06.2022.

2. The learned counsel appearing for the petitioner would submit that the 3rd respondent was engaged as a mini deposit collector in the petitioner's bank. The deposit collectors mainly perform the work of collecting deposits, for which the bank pays a lower rate of interest. The deposit collectors are not on the regular rolls of the Bank and are not entitled to the scale of pay as applicable to the regular employees. Instead, they are paid a commission



for the work performed by them.

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3. She further submitted that as per the judgment of the Hon'ble Supreme Court in Civil Appeal No.3358 of 1998, it was held that persons engaged on the basis of individual contracts to work on a commission basis cannot be equated with regular employees performing similar work. The deposit collectors are considered "workmen" within the meaning of Section 2(s) of the Industrial Dispute Act, and the commission received by them are 'wages' as per Section 2(rr) of the Industrial Dispute Act. The payment of Gratuity calculated as 15 days commission for each year of service rendered has been credited to their account. The third respondent had worked as a mini deposit collector from 06.10.1975 and resigned on 01.09.2016. Subsequently, the 3rd respondent filed a petition under the Payment of Gratuity Act before the second respondent, the second respondent allowed the claim and directed the petitioner to pay a sum of Rs.4,40,955/- along with interest at 10% p.a. The said order was passed on the premise that the 3rd respondent qualifies as an employee under Section 2(e) of the Payment of Gratuity Act. Aggrieved by the said order, the petitioner preferred an appeal before the first respondent. However, the first respondent, without properly considering the arguments of the petitioner, dismissed the appeal.



by order dated 06.06.2022.

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4. She further submitted that there is a calculation error in calculating the gratuity amount, and that the petitioner is liable to pay only a sum of Rs.3,86,870.87. However, the Controlling Authority directed the petitioner to pay gratuity to the tune of Rs.4,40,955/- with interest at the rate of 10% per annum from the actual date of payment till the date it is actually paid. Therefore, the order passed by the authority is liable to be set aside.

5. The learned Senior Counsel appearing for the third respondent would submit that the third respondent was employed as a mini deposit collector in the petitioner's bank and is entitled to gratuity benefits for the period of services rendered. He was appointed on 06.10.1975 and resigned on 01.09.2016, having rendered 41 years of service. The Controlling Authority correctly calculated the gratuity amount, whereas the petitioner divided the amount into 30 days instead of 26 days. Hence, there is no calculation error in the calculation made by the controlling authority under the payment of gratuity act. Therefore, the present writ petition is liable to be dismissed.

6. This Court heard both sides and perused the materials available on



7. In this case, there is no dispute that the 3rd respondent is entitled to gratuity. However, according to the petitioner, there is a calculation error. There is no dispute regarding the date of joining of the 3rd respondent and his date of joining is on 06.10.1975 and the date of resignation is on 01.09.2016. The Controlling Authority calculated the gratuity based on the last drawn and incentive remuneration at Rs.19,392/-, whereas the petitioner calculated the amount of Rs.3,86,870.87. Even, it is accepted, the petitioner's calculation is based on division by 30 instead of 26, which is not in accordance with the applicable rule. Therefore, the contention of the learned counsel for the petitioner that there is a calculation error is not acceptable. If the incentive remuneration of Rs.19,392/- was taken into account, the third respondent would actually be entitled to a higher amount than what was calculated by the Controlling Authority. However, no appeal was filed against the order passed by the Controlling Authority and the second respondent also accepted the calculation made by the said authority. Therefore, the writ petition has no merits and deserves to be dismissed. Hence, this Writ Petition is dismissed.



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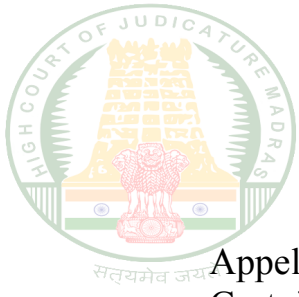
8. However, the third respondent brought to the notice of this Court that, as per the order passed by the Controlling Authority, the petitioner is liable to pay a sum of Rs.4,40,955/- along with interest at the rate of 10%. However, before the Controlling Authority, the petitioner deposited only the principal amount and the interest has to be paid. The third respondent has already withdrawn the principal amount as per the order of the Controlling Authority. Therefore, the petitioner is directed to deposit the interest amount as awarded by the Controlling Authority, within a period of one month from the date of receipt of a copy of this order. In case of default, appropriate proceedings may be initiated in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

10.07.2025

drl

To

1.The Deputy Chief Labour Commissioner (Chennai)



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P.DHANABAL, J.,

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