



W.P.No.28149 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28149 of 2014

And

M.P.Nos.2, 3 and 4 of 2014

The Management,
Tamilnadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Division,
12, Ramakrishna Road,
Salem – 636 007.
Rep. by its Managing Director

... Petitioner

Vs.

1.The Appellate Authority
Under the Payment of Gratuity Act, 1972,
The Joint Commissioner of Labour (In charge)
Coimbatore.

2.The Controlling Authority,
(Under the Payment of Gratuity Act, 1972)
The Assistant Commissioner of Labour,
Salem.

3.K.Murugesan

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order of the first respondent, The Appellate Authority, Under the Payment of Gratuity Act, 1972, Joint Commissioner of Labour (In charge), Coimbatore



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made in வழக்கு.எண்.ப.கொ.மே.மு.177/2011 dated 21.08.2013 and the Order passed by second respondent, The Controlling Authority (Under the Payment of Gratuity Act, 1972), Assistant Commissioner of Labour, Salem made in பணிக் கொடைவழக்கு எண்.31/09 dated 21.03.2011 and to quash the same as illegal.

For Petitioner : Mr.M.Aswin
For Respondents : Mr.K.Surendran for R1 and R2
Additional Government Pleader
Mr.D.Sadhasivan for R3

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the order of the first respondent in வழக்கு.எண்.ப.கொ.மே.மு.177/2011 dated 21.08.2013 and the Order passed by second respondent in பணிக் கொடைவழக்கு எண்.31/09 dated 21.03.2011 and to quash the same as illegal.

2.The learned counsel appearing for the petitioner submitted that the third respondent joined the petitioner Corporation as a Company Apprentice Driver on 03.05.1984 and his services were regularized on 01.08.1986 and he attained the age of superannuation on 30.11.2008. During his service totally there was a period of 1 year



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11 months and 4 days of leave on loss of pay and taking note of the above period of non qualifying service, the petitioner Management on its own paid a sum of Rs.1,28,223/- on 26.05.2009 to the third respondent as service gratuity for his total service commencing from 01.08.1986 to 30.11.2008 excluding the period of leave on loss of pay.

3.The learned counsel appearing for the petitioner further submitted that the third respondent after receiving the payment of gratuity, filed petition before the second respondent seeking the difference of gratuity for non qualifying service. The learned counsel further submitted that though the third respondent contends that he is entitled for payment of gratuity from the date of appointment i.e., 03.05.1984 till the date of superannuation i.e., 30.11.2008, he is not entitled for payment of gratuity for the period from 03.05.1984 to 01.08.1986 since the said period is the period of apprentice and the same is not a qualifying service as per Section 2 of the Payment of Gratuity Act, 1972, however, without considering the same, the second respondent allowed the claim of the third respondent and aggrieved by the same, the petitioner preferred appeal before the first respondent and the first respondent vide impugned order dismissed the appeal preferred by the petitioner.



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4. Heard the arguments advanced on either side and perused the materials available on record.

5. Admittedly, the third respondent joined the petitioner Corporation as a Company Apprentice Driver on 03.05.1984 and his services were regularized on 01.08.1986 and he attained the age of superannuation on 30.11.2008. The third respondent filed petition before the second respondent seeking the difference of gratuity and the second respondent passed the order dated 21.03.2011 directing the petitioner to pay a sum of Rs.32,056/- being the difference of gratuity with 10% interest from 01.12.2008 and also directed the petitioner to pay 10% interest for Rs.1,28,223/- which amount was already paid to the third respondent from 01.12.2008 to 25.05.2009 and the same was confirmed by the first respondent.

6. Such order was passed in terms of Section 2-A of the Payment of Gratuity Act. Section 2-A of the Payment of Gratuity Act, makes it clear that when a person render substantial service, he is entitled for gratuity. In the present case, the third respondent was appointed on 03.05.1984 and he attained the age of superannuation on 30.11.2008



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and he has put in more than 24 years of service and hence, the impugned orders warrant no interference.

7.The petitioner is directed to pay the amount as ordered by the second respondent in பணிக் கொடைவழக்கு எண்.31/09 dated 21.03.2011, which was confirmed by the first respondent in வழக்கு.எண்.ப.கொ.மே.மு.177/2011 dated 21.08.2013, less the amount already paid, to the third respondent, as expeditiously as possible.

8.The writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.02.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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M.DHANDAPANI,J.
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