



W.P. No.33535 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.33535 of 2023

R. Viji W/o. R. Mohana Sundaram .. Petitioner

Vs.

1. The Secretary,
Ramakrishna Mission Vidyalaya Matric Hr. School,
Ramakrishnapuram,
Poonthottam, Post Box No.54,
Villupuram - 605 602.

2. The Deputy Labour Commissioner (Gratuity),
O/o. The Joint Labour Commissioner,
Government Training Centre Complex,
Abdullapuram, Vellore - 632 010.

3. The Director of Matriculation Schools,
DPI Complex, College Road,
Nungambakkam,
Chennai - 600 006.

4. The District Education Officer of Private Schools,
Rescue and Disaster Management Old Building,
Master Plan Complex,
Villupuram District Collector Complex,
Villupuram - 605 602. .. Respondents

PRAYER: The Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to make



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payment of gratuity payable to the petitioner along with simple interest at 8% per annum from the date of cessation of service of the petitioner to the date of making payment.

For petitioner : Mr. Jerry V.V. Sundar

For Respondents :

For R1 : Mr. P. Venugopal

For R2 to R4 : Mr. S. John J. Raja Singh

ORDER

The Writ petition has been filed to direct the respondents to make payment of gratuity payable to the petitioner along with simple interest at 8% per annum from the date of cessation of service of the petitioner to the date of making payment.

2. The learned counsel appearing for the petitioner would submit that the petitioner was working as Science Assistant in the Ramakrishna Vidyalaya Matriculation Higher Secondary School, Villupuram and had been working in the above institution from 19.06.1998 to 09.02.2004 i.e., 5 years 7 months and 20 days and subsequently, resigned from the said post upon being selected in the position of the Science Teacher in the School Education Department of the State Government and she got relieved from that post on 09.02.2004. Thereafter, the Management of the respondent School has not settled the gratuity amount payable to the petitioner. As per Section 4(1)(b) of the



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Payment of Gratuity Act, the gratuity shall be payable to the employee on the termination of his employment after he / she rendered continuous service for not less than five years on his retirement or resignation. Section 4(2) of the said Act says that for every completed year of service or part thereof in excess of six months, the employer shall pay gratuity to an employee at the rate of fifteen days wages based on the rate of wages last drawn by the employee. As per Sub-Section (1) of Section 7 says that a person who is eligible for payment of gratuity under this Act or any person authorized, in writing, to act on his behalf shall send a written application to the employer, within such time and in such form, as may be prescribed, for payment of such gratuity. While so, even after lapse of 20 years, the respondent School has not settled the gratuity amount to the petitioner. Therefore, the petitioner approached the School management in the year 2015 and a Resolution was passed by the Management on 21.08.2015. Subsequently, in June 2019, Sri Ramakrishna Educational Society Management has handed over all these Schools to the Kolkata Ramakrishna Mission Management by virtue of a settlement deed with an assurance that as soon as they take charge, they will give gratuity to all, in accordance with the rules and regulations of the Government. In this regard, the new Society "Ramakrishna Mission, Villupuram" has also passed a Resolution that "an employee / Staff shall be entitled to gratuity as per the provisions of the Payment of Gratuity Act. In spite of that, no any payment



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was made to the petitioner and therefore, the petitioner has filed this Writ petition.

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3. The learned counsel appearing for the respondent would submit that the Writ petition itself is not maintainable and the petitioner ought to have approached the then employer Sri Ramakrishna Educational Society under Section 7(1) of the Payment of Gratuity Act immediately on his resignation dated 09.02.2004. The petitioner without approaching the Controlling Authority, straight away approached this Court and there is an appeal provision as against the order passed by the Controlling Authority, but without exhausting those remedies, straight away, filed this petition. Further, there is a delay of more than 19 years in filing this Writ petition. Now the petitioner is serving as a Government School Teacher. Due to efflux of time, there are no records available in respect of the employment of the petitioner and the Writ petitioner without approaching the concerned Authorities, straight away, approached this Court by filing this Writ petition and therefore, the Writ petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. In this case, the petitioner has filed this Writ petition to direct the



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respondents to pay gratuity amount payable to her. According to the petitioner, she worked under the Management of Sri Ramakrishna Vidyalaya Matriculation Higher Secondary School, Villupuram as Science Assistant from 19.06.1998 to 09.02.2004. Subsequently, she resigned her job and joined in a Government School and thereafter, no gratuity amount was settled to her and thereby, she approached this Court by way of filing a Writ of Mandamus to direct the respondents to pay gratuity payable to her. The petitioner has not approached the Controlling Authority under the Payment of Gratuity Act and straight away, she approached this Court by way of filing this Writ petition.

6. It is settled law that if any alternative remedy is available, without exhausting that remedy, he cannot file Writ petition. In this case, the petitioner, without approaching the appropriate Authority under the Payment of Gratuity Act, she has straight way approached this Court. On that ground itself, the Writ petition is liable to be dismissed. Moreover, the date of resignation is 09.02.2004 and now the Writ petitioner has filed this petition in the year 2023. In the meantime, the erstwhile Management of Sri Ramakrishna Vidyalaya Matriculation Higher Secondary School, Villupuram was taken over by the 1st respondent in the year 2019. Therefore, according to the respondent, there are no records available with them. Even assuming



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that this Writ petition is maintainable, according to the respondents, there are no records available with the 1st respondent due to efflux of time in respect of the employment of the petitioner.

7. At this juncture, the learned counsel appearing for the petitioner has relied upon the following judgments:

(i) Independent Schools' Federation of India (Regd.) vs. Union of India and another reported in 2022 SCC Online SC 1113.

(ii) Allahabad Bank and another vs. All India Allahabad Bank Retired Employees' Association reported in (2010) 2 Supreme Court Cases 44.

(iii) Little World Higher Secondary School vs. State of Madhya Pradesh and others reported in 2025 SCC Online MP 3266.

8. On a careful perusal of the above said judgments, it is clear that the establishment is under a statutory obligation to pay gratuity as provided for, under Section 4 of the Act which is required to be read along with Section 14 of the Act. The provisions of the Act prevail over all other enactments or instruments or contracts so far as the payment of gratuity is concerned. The right to receive gratuity under the provisions of the Act cannot be defeated by any instrument or contract. It is also clear that no limitation is applicable for claiming gratuity by an employee who has completed more than 5 years of service from the date of exit from the employment till its realization, as held



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by the Hon'ble Division Bench of Madhya Pradesh High Court.

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9. But those judgments are noway helpful to decide the case in favour of the petitioner, as the petitioner has not approached the appropriate Authority and after 19 years, she approached this Court straight away by way of this Writ petition. Therefore, the Writ petition is liable to be dismissed on the ground of delay and laches.

10. The learned counsel appearing for the respondent has relied upon the following judgments:

(i) J.H. Vanishree vs. M/s. Karnataka TV Accessories & two others in W.A. Nos.2734 & 2735 of 2019 (LPG) - Hon'ble Division Bench of Karnataka High Court.

(ii) M. Jayaseelan vs. The Management, Jaigopal Garodia Vivekananda Vidyalaya, Chennai and another in W.P. No.29781 of 2019 - Madras High Court.

(iii) M. Jayaseelan vs. The Management, Jaigopal Garodia Vivekananda Vidyalaya, Chennai and another in W.A. No.570 of 2020 - Madras High Court.

(iv) C. Ravishankar vs. The Management, Jaigopal Garodia



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Vivekananda Vidyalaya, Chennai and another - Hon'ble Division Bench of this Court in W.A. No.1572 of 2022.

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(v) Basawaraj and another vs. Special Land Acquisition, Officer reported in 2013(14) SCC 81.

(vi) Ramakrishna Mission vs. Kago Kunya reported in (2019) 16 SCC 303.

11. On a careful perusal of the above relied judgments, it is clear that the records should be maintained for a period of 3 years and in the absence of records, no relief could be granted and also it is clear that the application for payment of gratuity is to be made within a reasonable time and to condone the delay, sufficient cause is to be explained. In the case on hand, no application was filed before the concerned Authority under the Payment of Gratuity Act. Therefore, without going into merits of the petition, this Court is declined to entertain this petition for the aforesaid reasons.

12. Moreover, in the case in ***Ramakrishna Mission vs. Kago Kunya reported in (2019) 16 SCC 303***, in which it is held that Ramakrishna Mission is not an Authority constituted within the meaning of Article 226 of Constitution of India and that Ramakrishna Mission or its hospital is not a 'State' within the meaning of Article 12 of Constitution of India and hence not amenable to Writ jurisdiction. In the case on hand also, the Writ petition is



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filed against the Ramakrishna Mission Vidhyalaya Higher Secondary School and thereby, the Writ petition is not maintainable and the same is liable to be dismissed.

13. Accordingly, the Writ petition is ***dismissed.*** ***However, the petitioner is at liberty to approach the appropriate Authority in accordance with law, if so advised.*** There shall be no order as to costs.

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Index : Yes/No
Speaking order/non-speaking order
mjs

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