



WP(MD), No.8015 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.10.2025

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

WP(MD)No.8015 of 2022
and
WMP(MD)No.6001 of 2022

The Management,
Kanyakumari District Central
Co-operative Bank Limited,
Rep. by its General Manager,
No.1, Alexander Press Road,
Nagercoil – 1,
Kanyakumari District.

... Petitioner

versus

1. The Joint Commissioner of Labour,
(Appellate Authority under the
Payment of Gratuity Act, 1972),
Madurai.
2. The Deputy Commissioner of Labour (Gratuity),
(Controlling Authority under the
Payment of Gratuity Act),
Tirunelveli.
3. The District Collector,
O/o. The District Collector,
Kanyakumari District,
Kanyakumari.



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4. The Tahsildar,
O/o. The Tahsildar,
Agastheeswaram,
Kanyakumari District.

5. Mr.J.Bhagia Raj,
S/o.Joseph,
2/2-D6, Agasthialingampillai Road,
Ponnappa Nadar Colony,
Nagercoil,
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order in ந.க.எண்.ஆ2/5372/2019 நாள் 04.02.2020 and the consequential order in ந.க.எண்.ஆ2/5372/2019 நாள் 10.03.2022 passed by the 2nd respondent and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For R1 to R4 : Mr.C.Venkatesh Kumar,
Special Government Pleader

For R5 : No appearance

ORDER

The Kanyakumari District Central Co-operative Bank Ltd. has filed this writ petition, challenging the proceedings of the 2nd respondent dated 04.02.2020 and the consequential proceedings dated 10.03.2022 issued by the 2nd respondent.



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2. The 5th respondent, an employee of the petitioner Co-operative Bank, has involved in financial irregularities. Therefore, an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act was conducted and based on the enquiry report, a surcharge proceedings was initiated against him. Thereafter, the Deputy Registrar of Co-operative Societies, Nagercoil, has passed a surcharge decree dated 29.11.1999, holding that the 5th respondent is liable to pay a sum of Rs.4,53,935/-. The 5th respondent has filed CMA(CS)No.8 of 2000 before the Co-operative Appellate Tribunal as against the above surcharge decree and the same was dismissed by order dated 07.10.2003. Further, the 5th respondent has filed a writ petition in W.P.No.3725 of 2004 against the surcharge award. The said writ petition was dismissed by order dated 18.03.2010, confirming the surcharge award and the order passed by the Co-operative Tribunal.

2.1. The 5th respondent has also filed a petition for gratuity in P.G.No.112 of 2000 before the 2nd respondent. The 2nd respondent, by order dated 20.06.2001, directed the petitioner Co-operative Bank to pay



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a sum of Rs.3,27,932/- as gratuity to the 5th respondent. Challenging the same, the petitioner Co-operative Bank has filed an appeal before the 1st respondent and the same was dismissed by order dated 05.07.2002. At the time of filing the appeal, the petitioner Co-operative Bank has deposited the entire claim amount before the 2nd respondent. The petitioner Co-operative Bank has filed a writ petition in W.P.No.35439 of 2002 as against the orders passed by the 1st and 2nd respondents. This Court, by order dated 13.08.2012, allowed the writ petition, by setting aside the orders passed by the 1st and 2nd respondents. In the meantime, the 5th respondent has approached the 2nd respondent and withdrawn the gratuity amount, by suppressing the pendency of the writ petition filed by the Co-operative Bank.

2.2. Thereafter, the 5th respondent has filed another claim petition before the 2nd respondent in P.G.I.A.No.470 of 2013 claiming difference of gratuity amount by misinterpreting the settlement under Section 12(3) of the Industrial Disputes Act. The 2nd respondent has allowed the claim petition, directing the petitioner Co-operative Bank to pay the difference of gratuity amount to the 5th respondent. Thereafter, the 2nd respondent



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has also issued notice dated 27.09.2019 to the petitioner Co-operative Bank to pay the difference of gratuity amount to the 5th respondent. Subsequently, the 2nd respondent, by his proceedings dated 04.02.2020, directed the 3rd respondent/the District Collector, Kanyakumari District, to recover the gratuity amount of Rs.13,20,690/- along with interest at the rate of 10% p.a. from the date of superannuation till the date of deposit, under the Revenue Recovery Act and a consequential proceedings dated 10.03.2022 was also passed by the 2nd respondent, directing the 4th respondent/the Tahsildar, Agastheeswaram, to recover the gratuity amount under the Revenue Recovery Act. Challenging the same, the present writ petition has been filed.

3. The 5th respondent has claimed gratuity as per 12(3) settlement based on the group gratuity scheme.

4. The issues regarding whether the Controlling Authority can entertain such petitions were referred to the Hon'ble Full Bench of this Court and the Hon'ble Full Bench, by order dated 30.10.2024, in W.P. (MD)Nos.4452 of 2013 and 23500 of 2016, etc. batch, has answered the



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reference as under:

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“67. A careful cumulative analysis of provisions of law and the interpretations as observed above would indicate that a plain reading of the provisions of the Payment of Gratuity Act, 1972, would indicate that under Section 7(4)(a) of the Act, “if there any dispute as to the amount of gratuity payable to an employee under this Act”, the said admissibility of such claim should be examined only by the Controlling Authority, as defined under Section 3 of the Act. This is the only interpretation possible, since Section 4(5) of the Act recognises the right of the employee to receive 'better terms of gratuity' under any award or agreement or contract with the employer. Therefore, a dispute relating to the amount of gratuity payable would not only include the amount of gratuity payable as provided under Section 7(2) of the Act, but also as provided under Section 4(5) of the Act.”

Challenging the same, the Co-operative Banks preferred Special Leave Petitions before the Hon'ble Supreme Court in SLP Nos.12362 to 12366 of 2025. The Hon'ble Supreme Court, on 13.05.2025, entertained the same and granted an interim order directing the parties to maintain *status quo* as on the date of order.



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5. Since the issue is pending before the Hon'ble Supreme Court, the pendency of this writ petition before this Court would not serve any purpose. Therefore, this writ petition is closed with a direction to the petitioner Co-operative Bank to settle the amount if any, as per the orders of the Hon'ble Supreme Court, to the 5th respondent/employee, within a period of six weeks from the date of receipt of the orders of the Hon'ble Supreme Court. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No.

Internet: Yes / No.

NCC : Yes / No.



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