



W.P.(MD) No.10128 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.10128 of 2021
and
W.M.P.(MD) No.7854 of 2021

The Management
Bharathi Cooperative Spinning Mills Ltd.,
Ettayapuram-628 902
Thoothukudi District
rep.by its Managing Director

... Petitioner

-vs-

- 1.The learned Appellate Authority
Under Payment of Gratuity Act, 1972
(Additional Commissioner of Labour)
Office of the Additional Commissioner
of Labour
Madurai
- 2.The learned Controlling Authority
Under Payment of Gratuity Act, 1972
(Assistant Commissioner of Labour)
Office of the Joint Commissioner of Labour
Tirunelveli



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3.S.N.Subbaiah

4.The Management
Krishnagiri District Cooperative
Spinning Mills Ltd.,
Uthangarai
Krishnagiri District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the first respondent herein P.G.Appeal No.27 of 2020, dated 06.01.2021, confirming the order passed by the second respondent in P.G.No.326 of 2018, dated 19.08.2019 and quash the same and consequently direct the second respondent herein to implead the fourth respondent in P.G.No.326 of 2018, on the file of the second respondent herein and decide the same on merits and in accordance with law.

For Petitioner : Mr.K.Hemakarhikeyan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 & R2
Mr.S.Kadarkarai for R3
Mr.C.Karthikeyan for R4



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ORDER

This writ petition has been filed by the petitioner aggrieved by an order dated 19.08.2019, passed in P.G.No.326 of 2018, on the file of the second respondent, refusing to implead the fourth respondent herein as a party to the said P.G.No.326 of 2018 as well as the order, dated 06.01.2021, passed in P.G.A.No.27 of 2020, on the file of the first respondent, confirming the order dated 19.08.2019, passed by the second respondent.

2. Today, when the matter is taken up for consideration, it is brought to the notice of this Court by Mr.C.Karthikeyan, learned counsel appearing for the fourth respondent that the fourth respondent has already remitted the entire amount as demanded by the petitioner herein and it is the primary liability of the petitioner herein to pay the entire amount of gratuity payable to the third respondent together with interest for the belated payment of the gratuity amounts and in case if there are any further dues from the fourth respondent, the fourth respondent would reimburse the same. Thus, he contended that the fourth respondent is neither a necessary party nor a proper party to the proceedings pending in P.G.No.326 of 2018.



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3. The fact that the fourth respondent has remitted the amount as initially claimed by the petitioner herein is admitted and the fourth respondent, in all, has already paid a sum of Rs.4,38,851/- to the petitioner and out of the said amount, an amount of Rs.3,70,216/- has also been paid to the third respondent herein and thereby, still a sum of 1,95,953/- is due towards the principal amount of gratuity payable to the third respondent herein and the said amount is lying with the petitioner herein.

4. Mr.K.Hemakarthykeyan, learned counsel for the petitioner, submitted that the sum of Rs.1,95,953/- would be disbursed in favour of the third respondent within a week's time and further submitted that the fourth respondent is still liable to pay a sum of Rs.50,000/- and in that regard, a letter has already been addressed to the fourth respondent.

5. However, Mr.C.Karthykeyan, learned counsel appearing for the fourth respondent submitted that the fourth respondent is not liable to pay any amount, but in case if any such liability is fixed by the second respondent while passing orders in P.G.No.326 of 2018, the fourth respondent would pay the same or reimburse in favour of the petitioner either towards interest or towards the principal amount.



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6. In terms of the law governing the field, it is the primary liability of the petitioner to settle the gratuity amount due and payable to the third respondent including the period during which he worked in the fourth respondent – Mill. Therefore, the petitioner shall pay the amount payable in favour of the third respondent and seek reimbursement of the same from the fourth respondent. That is the reason why the respondents 1 and 2 refused to implead the fourth respondent as a party to the proceedings pending before the second respondent.

7. In the light of the readiness expressed by the fourth respondent to reimburse or to pay the amounts in case if any such liability is fixed by the second respondent, this Court does not deem it fit to implead the fourth respondent as a party to the proceedings pending before the second respondent.

8. Accordingly, this writ petition is disposed of directing the petitioner to pay the sum of Rs.1,95,953/- to the third respondent within a period of one week from today and further directing the second respondent to conclude the proceedings pending before him in P.G.No.326 of 2018, within a



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period of two months from the date of receipt of a copy of this order. In case if any further amounts and interest are directed to be paid by the petitioner, the fourth respondent shall share its liability and pay all such amounts to the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

12.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Additional Commissioner of Labour,
Appellate Authority,
Under Payment of Gratuity Act, 1972,
Office of the Additional Commissioner of Labour,
Madurai.
- 2.The Assistant Commissioner of Labour ,
Controlling Authority,
Under Payment of Gratuity Act, 1972,
Office of the Joint Commissioner of Labour,
Tirunelveli.



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MUMMINENI SUDHEER KUMAR, J.

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