



W.P.(MD).Nos.5422 and 5423 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.5422 and 5423 of 2019

and

W.M.P(MD) Nos.4311 to 4314 of 2019

W.P.(MD) No.5422 of 2019:

The Management,
Tiruchirapalli District Amaravathi Consumers
Cooperative Wholesale Stores Limited,
No.1, Old Goods Shed Road,
Tiruchirapalli..

... Petitioner

Vs.

1. The Joint Commissioner of Labour,
(The Appellate Authority)
Appellate Tribunal,
Tiruchirappalli.

2. The Controlling Authority
under the Payment of Gratuity Act,
(Assistant Commissioner of Labour)
Tiruchirapalli.

3. P.Lalitha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the order made in P.G.No.488 of 2016, dated 03.07.2017 passed by the



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second respondent confirming the order made in P.G.A.No.4 of 2018, dated 14.06.2018 passed by the first respondent and quash the same.

For Petitioner : Mr.P.R.Prithiviraj
For R1 and R2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R3 : Mr.V.O.S.Kalaiselvam

W.P.(MD) No.5423 of 2019:

The Management,
Tiruchirapalli District Amaravathi Consumers
Cooperative Wholesale Stores Limited,
No.1, Old Goods Shed Road,
Tiruchirapalli.

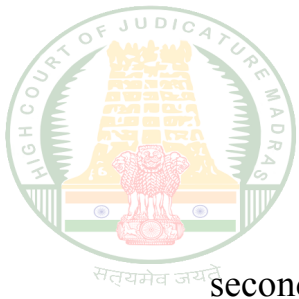
... Petitioner

Vs.

1. The Joint Commissioner of Labour,
(The Appellate Authority)
Appellate Tribunal,
Tiruchirappalli.
2. The Controlling Authority
under the Payment of Gratuity Act,
(Assistant Commissioner of Labour)
Tiruchirapalli.
3. S.Alleam Basha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the order made in P.G.No.489 of 2016, dated 03.07.2017 passed by the



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second respondent confirming the order made in P.G.A.No.3 of 2018, dated 14.06.2018 passed by the first respondent and quash the same.

For Petitioner : Mr.P.R.Prithiviraj
For R1 and R2 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R3 : Mr.V.O.S.Kalaiselvam

COMMON ORDER

W.P(MD) No.5422 of 2019 has been filed by the Management of the Cooperative Society, challenging the order passed by the first respondent herein under the Payment of Gratuity Act, directing the Management to pay gratuity to the third respondent.

2. W.P(MD) No.5423 of 2019 has been filed by the Management of the Cooperative Society challenging the order of the first respondent under the Payment of Gratuity Act, wherein, a direction was issued to pay the gratuity to another employee.

3. According to the learned counsel appearing for the petitioner/ Management, the third respondent in W.P(MD) No.5422 of 2019, who was



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working as an Assistant in the petitioner Cooperative Society was dismissed from service after conducting domestic enquiry, on the ground of misappropriation. He further submits that the third respondent in W.P(MD) No.5423 of 2019, who was working as an Accounts Officer was dismissed from service after conducting domestic enquiry, on the ground of misappropriation.

4. The petitioner contends that when the respondents No.3 have been dismissed from service on the ground of mis-conduct they are not entitled to receive any gratuity as contemplated under Section 4 (6) of the Tamil Nadu Payment of Gratuity Act, 1972.

5. The learned counsel appearing for the third respondent in both the writ petitions submits that both of them have filed appeals before the authority under the Tamil Nadu Shops and Establishment Act. The third respondent in W.P(MD) No.5422 of 2019 has filed T.N.S.E.No.3 of 2022 and the third respondent in W.P(MD) No.5423 of 2019 has filed T.N.S.E.No.4 of 2022 before the Joint Commissioner of Labour, Tiruchirappalli. Both the appeals are pending.



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6. Challenging the dismissal orders, statutory appeals are before the authority under the Tamil Nadu Shops and Establishment Act 1987. Therefore, payment of gratuity by the Management would not arise at this stage. In case, if both the appeals are allowed, the respective workmen would be entitled to seek gratuity. Hence, the orders impugned in the writ petitions shall be kept in abeyance until the outcome of the appeals pending before the authority under the Shops and Establishment Act. If the workmen succeed before the authority under the Shops and Establishment Act, the Management shall be liable to pay the gratuity as per the statutory liability.

7. With the above said observations, these Writ Petitions are disposed of. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

16.06.2025

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