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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.823 of 2019
and
W.M.P(MD)No.657 of 2019

The Management,
Agricultural Research Station,
Kovilpatti,
Thoothukudi District.

...Petitioner

Vs

1.Lourdammal

2.The Appellate Authority under payment of
Gratuity Act and the Additional Commissioner of Labour,
Ellis Nagar, Madurai - 625 001.

3.The Controlling Authority under Payment of Gratuity
Act and the Assistant Commissioner of Labour, Tirunelveli.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorarified Mandamus**, calling for the records relating to the order dated 04.08.2017, passed by the 3rd respondent in P.G.No.49 of 2012, (Controlling Authority) and the order dated 08.03.2018, passed by the 2nd respondent in P.G.A.No.12 of 2017 (Appellate Authority) and quash the same and consequently direct the 3rd respondent to refund the deposited amount of Rs.1,01,046/- along with further accrued interest to the petitioner with a time limit.



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For Petitioner : M/s.A.Thirumurthy

For Respondents : M/s.M.Nandhini Priyadharashini for
M/s.D.Geetha for R1
M/s.D.Farjana Ghoushia
Special Government Pleader
for R2 & R3

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ORDER

The Management of the Agricultural Research Station, Kovilpatti, Thoothukudi District, has filed the present writ petition challenging the order passed by the second respondent herein wherein he had confirmed the order passed by the third respondent.

2.The first respondent herein was employed as a casual employee in the petitioner Research Station and she was brought under time scale of pay w.e.f.01.04.2008. She had attained superannuation on 30.06.2011. She had approached the third respondent herein in P.G.No.49 of 2012, seeking gratuity and order was passed by the third respondent on 04.08.2017, directing the petitioner Research Station to pay a sum of Rs.61,865/- as gratuity. This order was put to challenge by the petitioner before the second respondent. The second respondent has proceeded to confirm the said order. Challenging the same, the present Writ Petition has been filed.



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3. According to the learned Counsel appearing for the writ petitioner, the first respondent herein was initially appointed as NMR and brought under time scale of pay w.e.f. 01.04.2008, under G.O.Ms.No.352, Agricultural Department, dated 24.11.2008. She had attained superannuation on 30.06.2011. The Government has issued G.O.Ms.No.78, Agricultural Department, dated 23.04.2013, declaring a sum of Rs.50,000/- as gratuity for those Mazdoors who were brought under time scale of pay. According to him, the said amount was paid to the first respondent herein, on 23.04.2013.

4. According to the learned Counsel appearing for the writ petitioner, the first respondent herein is under Government service and she has brought under time scale of pay under G.O.(MS)No.352, Agricultural Department, dated 24.11.2008. As far as those Mazdoors who were brought under time scale of pay, on 24.11.2008, gratuity has been declared by the Government under G.O.Ms.No. 78, Agricultural Department, dated 23.04.2013. In such circumstances, in view of the Section 2(e) of the Payment Gratuity Act, 1972, the first respondent being governed by a separate rule for Payment of Gratuity, cannot approach the authorities under the Payment of Gratuity Act and seek enhanced gratuity.



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5.Per contra, the learned Counsel appearing for the first respondent workman has submitted that the first respondent has attained superannuation on 30.06.2011. However, G.O.(Ms).No.78, Agricultural Department, came to be passed only on 23.04.2013. Therefore, the said Government order is not applicable to the first respondent and hence, the order passed by the authorities under the Payment of Gratuity Act have to be enforced.

6.I have considered the submissions made on either side and perused the materials available on record.

7.A perusal of G.O.(MS)No.352, Agricultural Department, dated 24.11.2008, reveals that the petitioner and similarly placed persons, who were working as Mazdoors on daily wage or on consolidated pay, were brought under time scale of pay w.e.f.01.04.2008. Admittedly, the petitioner was beneficiary of the said Government Order. Though the 1st respondent had retired on 30.06.2011, G.O.Ms.No.78, Agricultural Department, dated 23.04.2013, is also applicable to him. According to the petitioner Research Station, a sum of Rs.50,000/- has already been paid to the first respondent on 23.04.2013. In such circumstances,



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as rightly contended by the learned Counsel appearing for the petitioner, when a separate rule governs Payment of Gratuity with regard to the first respondent herein, they cannot invoke the provision under the Payment of Gratuity Act, 1972, seeking gratuity.

8.The learned Counsel appearing for the first respondent has submitted that there are no instructions from her client with regard to the payment of said Rs.50,000/-. In case, if the said amount has not been disbursed by the petitioner Research Station, the same shall be disbursed within a period of 12(twelve) weeks along with 6% interest from 23.04.2013. If any excess amount has already been deposited by the petitioner Research Station before the third respondent, the same shall be refunded.

9.With the above said observations, this Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

11.07.2025

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



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R.VIJAYAKUMAR, J.

RJR

To

1.The Additional Commissioner of Labour,
The Appellate Authority under payment of
Gratuity Act, Ellis Nagar, Madurai - 625 001.

2.The Assistant Commissioner of Labour,
The Controlling Authority under Payment of Gratuity
Act, Tirunelveli.

W.P.(MD)No.823 of 2019
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