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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.16879 of 2019

and

W.M.P(MD)No.13466 of 2019

Secretary,
Mekka Mandapam Primary Agricultural
Co-operative Credit Society,
Mekka Mandapam,
Kanyakumari District.

...Petitioner

Vs

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

2.S.Rinees

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to impugned order dated 04.04.2019, passed by the 1st Respondent in P.G.No.79 of 17, and quash the same as illegal.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R1
Mr.J.John Jayakumar for R2



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ORDER

The present writ petition has been filed by a Primary Agricultural Co-operative Credit Society challenging the order passed by the first respondent under the Payment of Gratuity Act, 1972, in P.G.No.79 of 2017.

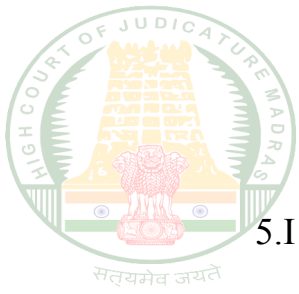
2.The second respondent herein was working as a Secretary of the petitioner Society had attained superannuation on 31.05.2006. According to him, the gratuity amount, as per the Payment of Gratuity Act was not paid and he had filed an application before the first respondent in P.G.No.79 of 2017. The first respondent after considering the submissions made on either side has proceeded to pass an order directing the petitioner Co-operative Society to pay a sum of **Rs.69,995/- (Rupees Sixty Nine Thousand Nine Hundred and Ninety Five only)** with interest at the rate of 10% w.e.f. 01.06.2006. Challenging the said order, the present writ petition has been filed by the Society.

3.This Court when questioned the maintainability of the writ petition without availing the statutory appellate remedy as contemplated under Section 7(7) of the Payment of Gratuity Act, 1972, the learned Counsel appearing for the petitioner has submitted that the workmen being an employee of the Co-operative Society, the first respondent is not a competent authority to decide



about the dispute arising under the Payment of Gratuity Act, 1972. According to the learned Counsel appearing for the writ petitioner, an employee has to approach only the authorities under the Tamil Nadu Co-operative Societies Act, 1983, namely, invoking Section 153 of the Tamil Nadu Co-operative Societies Act. Since the first respondent does not have any jurisdiction to entertain an application under the Payment of Gratuity Act, 1972, the present writ petition is not maintainable.

4.Per contra, the learned Counsel appearing for the second respondent herein has contended that there is no dispute, whatsoever, that the Payment of Gratuity Act, 1972, is applicable to the employees of the Co-operative Societies also. He has further pointed out that as per Section 79 of the Tamil Nadu Co-operative Societies Act, a gratuity fund has to be created by every Co-operative Societies in its bye-laws only if the Payment of Gratuity Act is not applicable. As far as the present case is concerned, no gratuity fund has been created by the Society. Therefore, the Payment of Gratuity Act is applicable. In such circumstances, there cannot be any dispute over the jurisdiction of the first respondent to entertain an application under the Payment of Gratuity Act, 1972.



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

6.It is the submission of the learned Counsel appearing for the petitioner that the second respondent being an employee of the Co-operative Society, he should have approached only the authorities under the Tamil Nadu Co-operative Societies Act. This submission can be accepted only if the Payment of Gratuity Act is not applicable to a particular Co-operative Society and a gratuity fund has been created by the Society concerned in its bye-laws as contemplated under Section 79 of the Tamil Nadu Co-operative Societies Act. However, in the present case, admittedly, the Payment of Gratuity Act, is applicable and the petitioner Society has also taken a statutory insurance as contemplated under Section 4A of the Payment of Gratuity Act, 1972. In such circumstances, the jurisdiction of the first respondent cannot be questioned by the petitioner Society.

7.In view of the above said deliberations, the present writ petition is not maintainable and the petitioner has to approach only the appellate authority under Section 7(7) of the Payment of Gratuity Act, 1972. The petitioner Society is at liberty to raise all the grounds before the appellate authority.



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8. The period between 30.07.2019, till the date of receipt of a copy of this order from this Court shall be excluded for the purpose of calculating the limitation for filing an appeal before the competent authority.

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

10.06.2025

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

Note:-

The Registry is directed to return the original impugned order after getting due acknowledgment from the learned Counsel appearing for the petitioner.

To

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



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R.VIJAYAKUMAR, J.

RJR

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