

W.P(MD)Nos.6124 & 7335 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 10.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.6124 & 7335 of 2018
WMP(MD) Nos.5972, 5973, 7022 & 7023 of 2018

W.P(MD)No.6124 of 2018:-

The Management,
Thanjavur Central Co-operative Bank Ltd.,
West Main Street,
Thanjavur.

... Petitioner

Vs

- 1.The Appellate Authority,
Under Payment of Gratuity Act 1972 ,
Tiruchirappalli.
- 2.The Controlling Authority,
Under Payment of Gratuity Act 1972,
Assistant Commissioner of Labour (Gratuity),
O/o.Deputy Commissioner of Labour,
Tiruchirappalli - 20.

3.S.Kannan

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the first



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respondent in P.G.A.No.84/2016 dated 29/11/2017, dismissing the appeal and confirming the order passed by the 2nd respondent vide P.G.No.32/2013 dt.09/06/2016.

W.P(MD)No.7335 of 2018:-

The Management,
Thanjavur Central Co-operative Bank Ltd.,
West Main Street,
Thanjavur.

... Petitioner

Vs

- 1.The Appellate Authority,
Under Payment of Gratuity Act 1972 ,
Tiruchirappalli.
- 2.The Controlling Authority,
Under Payment of Gratuity Act 1972,
Assistant Commissioner of Labour (Gratuity),
O/o.Deputy Commissioner of Labour,
Tiruchirappalli - 20.

3.K.Mohamed Jubair

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned orders passed by the first respondent in P.G.A.No.80/2016 dated 29/11/2017, dismissing the appeal and confirming the order passed by the 2nd respondent vide P.G.No.28/2013 dt.07.06.2016 and quash the same.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi
For R1 & R2 : Mr.S.Vinoth
Government Advocate
For R3 : Mr.G.M.Xavier
(In both the writ petitions)

COMMON ORDER

The Thanjavur District Central Co-operative Bank Limited/Management has filed these writ petitions, as against the orders passed by the Authority under the Gratuity Act/Appellate Authority, in P.G.A.No.80 & 84 of 2016, dated 29.11.2017, confirming the order passed by the Controlling Authority in P.G.Nos.28 & 32 of 2013, dated 07.06.2016 and 09.06.2016, in granting the gratuity amount to the third respondents, for their consolidated pay service rendered in the Primary Agricultural Co-operative Societies.

2.The case of the petitioner Management is that the third respondent in both the writ petitions have been initially appointed in Koothanallur Primary Agricultural Co-operative Society and Thaligaividuthi Primary Agricultural Co-operative Society



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respectively, on Adhoc basis in the year 1967. Thereafter, as per the

Government Order in G.O.Ms.No.331, Co-operation, Food and

Consumer Protection Department, dated 05.12.1988, they have been

appointed, under the petitioner Management on 15.09.1973, on

condition that their appointments have to be treated as fresh

appointments. The third respondents have served in the petitioner's

Co-operative Banks till their age of superannuation on 31.03.2001

and 30.04.2004 respectively. They have also been settled with

gratuity amount for the period, in which, they have rendered service

in the petitioner Bank, in accordance with Group Gratuity Scheme

linked with Life Insurance Corporation of India. After several years

from the date of their retirement, they have filed applications before

the Controlling Authority/the second respondent, seeking gratuity

for their service period in the Primary Agricultural Co-operative

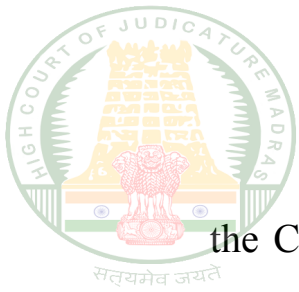
Societies also and the same was ordered by the second respondent,

in P.G.Nos.28 & 32 of 2013, dated 07.06.2016 and 09.06.2016, with

a direction to the petitioner Management to pay the gratuity amount

along with 10% interest, for their service period in the Primary

Agricultural Co-operative Societies. Challenging the above order of



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the Controlling Authority, the petitioner Management has preferred appeals before the Appellate Authority/the first respondent herein, and it was dismissed by his orders in P.G.A.No.80 & 84 of 2016, dated 29.11.2017. Aggrieved over the same, the petitioner Management has filed these writ petitions in the year 2018.

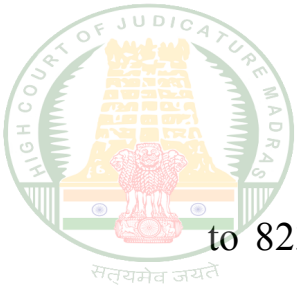
3.The learned counsel appearing for the petitioner Management submits that though the third respondent in both the writ petitions have been appointed in the Primary Agricultural Co-operative Societies in the year 1967, it was on adhoc basis and they have been absorbed in the petitioner Management, as per the Government Order in G.O.Ms.No.331, Co-operation, Food and Consumer Protection Department, dated 05.12.1988, treating their appointments as fresh. Clause No.5 of the above Government order specifically prescribes that while appointing the adhoc employees of Primary Agricultural Credit Societies in the service of Central Co-operative Banks, the seniority will be counted only from the date of joining in the services of Central Co-operative Bank. The services rendered in the Primary Agricultural Credit Societies will not be



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counted for seniority on any account. According to the learned counsel, as per the Special Bylaw of the petitioner Bank, the adhoc employees of Primary Agricultural Co-operative Banks shall be entitled to receive all the service benefits such as pay, other allowances, gratuity, leave provident fund etc., to the post to which, they are appointed only from the date of their joining duty in the service of the Central Co-operative Bank. However, without considering the above condition in the bylaw of the petitioner Bank and also the Clause No.5 of the Government Order in G.O. G.O.Ms.No.331, Co-operation, Food and Consumer Protection Department, dated 05.12.1988, the Controlling Authority has passed the order, directing the Management to pay gratuity to the individuals for their period of service in Primary Agricultural Co-operative Societies and it was also erroneously confirmed by the Appellate Authority.

3.1.The learned counsel for the petitioner has brought to the notice of this Court that the Division Bench of this Court, while deciding the similar issue in W.A(MD) Nos.799 to 814, 816 and 818



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to 823 of 2020, dated 18.06.2025, has remanded the matter to the

Controlling Authority under the Payment of Gratuity Act, to conduct an elaborate adjudication and complete the same as expeditiously as possible.

4.The learned counsel appearing for the third respondent in both the writ petitions submits that they have been engaged on adhoc basis in the Primary Agricultural Co-operative Societies in the year 1967. Thereafter, on the request of these employees, the Government has regularised their services, vide G.O.No.331, Co-operation Food and Consumer Protection Department dated, 05.12.1988, absorbing all these consolidated pay employees in the Central Co-operative Banks. The Controlling Authority has taken into consideration of Section 2A of Payment of Gratuity Act, 1972 and has ordered for gratuity to the third respondents for their period of service rendered in Primary Agricultural Co-operative Societies, under Section 7(3A) of Payment of Gratuity Act, 1972 and the Appellate Authority has also confirmed the same.



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5.This Court considered the rival submissions made and also perused the materials placed on record.

6.Though the third respondent in both the writ petitions have been appointed in Primary Agricultural Co-operative Societies, in the year 1967, they have been regularised only in the year 1973, as per the Government Order in G.O.Ms.No.331, Co-operation, Food and Consumer Protection Department, dated 05.12.1988, with a condition that their seniority would be counted only from the date of joining in the services of Central Co-operative Banks. The retired employees, after getting their retirement benefits without any resistance have filed applications before the Controlling Authority under the Payment of Gratuity Act, with a claim that their consolidated pay service rendered in the Primary Agricultural Co-operative Societies has also to be reckoned as qualifying service for calculating the gratuity amount. It is to be noted that they have retired from service in the years 2001 and 2004 respectively, however, the applications have been filed by them in the year 2013.



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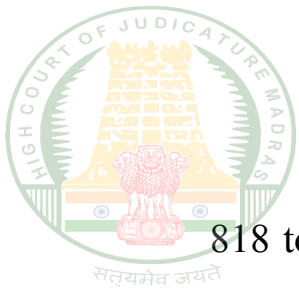
It appears that the Controlling Authority as well as the Appellate Authority, without considering the specific conditions in G.O.Ms No.331, Co-operation, Food and Consumer Protection Department dated, 05.12.1988 and also the Special bylaw of the petitioner Bank, have granted the relief to the third respondents. Clause 5 of the above mentioned Government Order is as under:-

"5.While appointing the adhoc employees of Primary Agricultural Credit Societies in the service of Central Co-operative Banks, the seniority will be counted only from the date of joining in the services of Central Co-operative Bank. The services rendered in the Primary Agricultural Credit Societies will not be counted for seniority on any account".

The relevant portion from the Bylaw of the Central Co-operative Bank is as under:

"9.the adhoc employees of Primary Agricultural Co-operative Banks shall be entitled to receive all the service benefits such as pay, other allowances, gratuity, leave provident fund etc., to the post to which, they are appointed only from the date of their joining duty in the service of the Central Co-operative Bank."

Now, it is reported that the similar issue has been settled by the Division Bench of this Court in W.A(MD) Nos.799 to 814, 816 and



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818 to 823 of 2020, dated 18.06.2025 and the relevant portion is as

under:-

'6.Hearing the respective learned counsels appearing on behalf of the parties to the lis and perusal of the orders would reveal that no adjudication on merits had been undertaken either by the Controlling Authority or by the Appellate Authority under the Gratuity Act. The appellant has raised jurisdiction point in the context of Section 79 of the Tamil Nadu Co-operative Societies Act. The respondents would oppose by stating that their consolidated pay service in the Primary Cooperative Societies is also to be taken into consideration. This is a disputed question of fact between the parties, which deserves an adjudication with reference to the original documents, service records, etc. Such an adjudication cannot be undertaken in a writ proceedings. Since the Full Bench has answered the references, it is unnecessary for this Division Bench to again consider those legal points, which have to be considered by the Controlling Authority and the Appellate Authority in the context of the facts established between the parties. However, the facts regarding the eligibility of consolidated pay employee for reckoning the period of service rendered in the Primary Cooperative Societies for calculation of gratuity is to be considered by the Controlling Authority after conducting an elaborate adjudication based on the original documents, service records, etc.

7.In view of the fact that so far no factual adjudications are done before the Controlling Authority under the Gratuity Act and the matters are taken by way of Writ Petitions, Review Applications only on certain legal principles and the Full Bench also answered the references, this Court is of the considered view that the matters are to be remanded back to the Controlling Authority for an adjudication of issues on merits and in accordance with law.



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7.In view of the above, these writ petitions are allowed.

The impugned orders passed by the first and second respondents in in P.G.A.No.80 & 84 of 2016, dated 29.11.2017 and P.G.Nos.28 & 32 of 2013, dated 07.06.2016 and 09.06.2016 are set aside and the matter is remanded to the Controlling Authority under the Payment of Gratuity Act, 1972, for fresh consideration and appropriate decision. No costs. Consequently, connected Miscellaneous petitions are closed.

10.09.2025

Index:Yes

Internet:Yes

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To

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B.PUGALENDHI, J.

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Order made in
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