

W.P(MD)Nos.21703 and 22039 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2025

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CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.21703 and 22039 of 2021
and
WMP(MD)No.18647 of 2021

in WP(MD)No.21703 of 2021

K.Palanivelu

... Petitioner

Vs

- 1.The District Collector,
Madurai District,
Madurai.
- 2.The Tahsildar,
Thirupparankundram Taluk,
Madurai District.
- 3.The Controlling Authority /
The Deputy Commissioner of Labour,
(The Authority under the
Payment of Gratuity Act, 1972),
Madurai.
- 4.The Managing Director,
Tamil Nadu State Transport
Corporation (Madurai) Ltd,
Madurai Region, Bye-pass Road,
Madurai.

...Respondents



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PRAYER:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the 1st and 2nd respondents to recover the balance gratuity amount of Rs.1,65,015/- together with 10% interest, payable to the petitioner from the 4th respondent as per the order dated 29.08.2017 in PG.NO.85 of 2011 of the 3rd respondent and also as requested in his certificate dated 12.03.2019 within a period of time as may be fixed by this court.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.C.Venkateshkumar
Nos.1 to 3 Specical Government Pleader
For Respondent : Mr.J.Senthil Kumaraiah
No.4

in WP(MD)No.22039 of 2021

The Management,
Tamil Nadu State Transport Corporation Madurai Ltd,
Rep by its General Manager,
Byepass Road, Madurai. ... Petitioner

Vs

1.K.Palanivelu

2.The Controlling Authority /
for the payment of gratuity,
The Assistant Commissioner of Labour,
Madurai. ...Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records relating to the impugned order passed by the 2nd respondent in PG.No.85 of 2011 dated 29.08.2017 as illegal and quash the same.



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For Petitioner : Mr.J.Senthil Kumaraiah
For Respondent No.2 : Mr.C.Venkateshkumar
Special Government Pleader
For Respondent No.1 : Mr.S.Arunachalam

ORDER

The transport corporation / Management has filed a writ petition in WP(MD)No.22039 of 2021 as against the order passed by the Assistant Commissioner of Labour / the Controlling Authority under the Payment of Gratuity Act in PG.No.85 of 2021 dated 12.03.2019. The Workman has filed a writ petition in WP(MD)No.21703 of 2021 seeking a direction to the Management to pay the gratuity amount together with 10% interest as directed by the Controlling Authority in PG.No.85 of 2021.

2.Since both these writ petitions are arising out of the order dated 12.03.2019 passed in PG.No.85 of 2021, they are taken up together for hearing and disposed of by this common order.



3.The Workman has raised an industrial dispute as against the order of termination before the Labour Court and finally it has been settled by the Division Bench of this court in WA(MD)No.1000 of 2015 by order dated 30.06.2021 with the following directions:

“15. Thus, for all the above reasons,

(i) W.A.(MD) No.1000 of 2015 is allowed and the order dated 06.02.2013, passed in W.P.(MD) No. 761 of 2011, is set aside. Consequently, the order impugned in the writ petition, dated 16.02.2010, is quashed and the Management is directed to grant pension to the workman in the light of the award of reinstatement and continuity of service. However, the prayer for grant of interest on the arrears payable is rejected.

(ii) W.P.(MD) No.4641 of 2014 is dismissed confirming the order, dated 07.08.2013, passed in C.P.No.2 of 2011, by the Labour Court, Madurai and the wages computed shall be paid.

(iii) Needless to state that the workman is entitled for wages for the period from 17.02.1992 to 30.06.2006, after deducting the wages paid under Section 17-B of I.D.Act and consequently, other terminal benefits, including pension.



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(iv) The above direction shall be complied with by the Management, within a period of three months from the date of receipt of a copy of this Judgment.(v)No costs. Consequently, connected miscellaneous petitions are closed.

4.The main contention of the Management is that the workman failed to join duty despite repeated reminders by the management from the year 2002 and therefore, he is not entitled for gratuity for the period from the year 2002. However this contention of the petitioner has also been answered by the Division Bench as under:

“12. In any event, the award of the Labour Court granting reinstatement with continuity of service having become final, the workman is entitled to be reinstated with continuity of service and consequently, all benefits should be computed by taking note of full length of service and the pension to be accordingly fixed. However, the workman is not entitled to any backwages for the period from 1974 to 1992 as the award of 50% backwages was set aside by the learned Writ Court and the workman had not challenged that portion of the award. The order, which was impugned in the writ petition filed by the



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workman, dated 16.02.2010, is an outcome of wrong understanding of facts and misconception. The Management has glossed over the important portion of the relief granted by the Labour Court i.e.the relief of continuity of service while ordering reinstatement. This order having attained finality, the Management cannot escape from the rigor of such order nor they can contend that the workman has to be treated as a fresh entrant. Furthermore, the Management would not be justified in alleging that the workman did not report for duty in spite of three communications sent by the Management. If such was the true state of affairs, nothing prevented the Management from initiating fresh disciplinary action against the workman, which they did not do. On the contrary, they continued to pay wages under Section 17-B of I.D.Act and considering the totality of the facts and circumstances, it can be clearly inferred that the Management was not willing to reinstate the workman. Hence, the workman is entitled to be reinstated notionally and the entire length of service should be reckoned and his pay and allowance shall be fixed at the appropriate stages and consequently, the pension shall also be properly fixed and to be paid.”

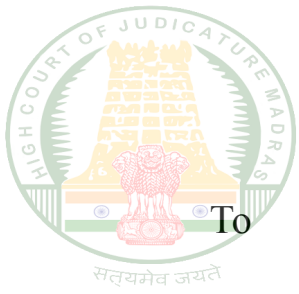


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5. In view of the above direction, this court is not inclined to consider the case of the Management as against the orders passed by the Controlling Authority under the Payment of Gratuity Act. However the request of the Management with regard to the interest portion has to be considered and the interest portion is modified as 8.5% instead of 10%. Accordingly, the writ petition filed by the Workman is partly allowed and the writ petition filed by the Management is also partly allowed with a direction to the Management to pay the gratuity amount together with 8.5% to the workman within a period of twelve weeks from the date of receipt of a copy of this order. The workman is permitted to withdraw the amount, which had already been deposited by the Management before the Controlling Authority and the balance amount has to be paid with interest by the management to the Workman as directed above. No costs. Connected miscellaneous petition is closed.

09.10.2025

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B.PUGALENDHI, J.

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