



W.P.(MD)No.22602 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.04.2025

CORAM

THE HON'BLE MR.JUSTICE **MUMMINENI SUDHEER KUMAR**

W.P.(MD)No.22602 of 2018

and

W.M.P.(MD)No.20484 of 2018

The Management,
Madurai District Central Cooperative Bank Limited,
represented by its Managing Director/Joint Registrar,
No.187, North Veli Street, Madurai – 625 001. ... Petitioner

vs.

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

2.J.Mathavan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in P.G.No.238/2015, dated 02.03.2015 and consequential order vide A6/1688/2018 dated 19.10.2018.



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W.P.(MD)No.22602 of 2018

For Petitioner :Mr.D.Shanmugaraja Sethupathi
For R1 :Mr.R.Ragavendran
Government Advocate
For R2 :Mr.M.Mohasundaram

ORDER

This Writ Petition has been filed aggrieved by the order, dated 02.03.2016 passed in P.G.No.238/2015, by the first respondent at the instance of the second respondent.

2.The impugned order has been mainly challenged on the ground of violation of principles of natural justice and not affording reasonable opportunity to the petitioner herein to contest the matter. Considering the said submission, this Court by an order, dated 25.03.2025, directed the first respondent to produce the relevant records in connection with the impugned order and accordingly, records have been placed before this Court today.

3.On perusal of the said records, it is noticed that the second respondent has made a claim for payment of gratuity along with an



W.P.(MD)No.22602 of 2018

application to condone the delay in filing the said application. In the said interlocutory application seeking to condone the delay, notice was ordered on 15.09.2015 duly fixing the date of next hearing as 13.10.2015. However, it is also noticed from the records that the said notice, dated 15.09.2015 was served on the petitioner only on 13.10.2015, ie., the date fixed for hearing. Therefore, the petitioner could not appear before the first respondent. However, the said interlocutory application was allowed on 13.10.2015 itself. Thereafter, the matter was directed to be listed for hearing on 03.11.2015 and on the said date, the matter was adjourned to 09.12.2015 and the petitioner herein was set *ex parte* and thereafter, the impugned order came to be passed. However, the first respondent having passed the order, dated 02.03.2016, has not communicated the said order to the petitioner as well as to the second respondent, but the same was despatched only on 29.11.2017 and the same was served on the petitioner only on 30.11.2017. It is aggrieved by the said order, dated 02.03.2016, the petitioner has approached this Court by filing the present Writ Petition.



W.P.(MD)No.22602 of 2018

WEB COPY

4.A perusal of the original order, dated 02.03.2016 shows that the first respondent having signed the said order put the date as 2.3.2017, and then corrected the said date as 2.3.2016. From this, this Court entertained a doubt as to whether the said order was actually passed on 02.03.2016 or not. If the said order was passed on 02.03.2016 itself, it is not understand as to why the first respondent has not despatched the said order till 29.11.2017. Admittedly, the impugned order, dated 02.03.2016 despatched to the petitioner only on 29.11.2017., ie., after a lapse of more than one and half years. Further, the act of putting the date as 2.3.2017 on 2.3.2016 is also too unnatural.

5.In view of the above, this Court is of the considered view that the impugned order has been passed without following due process of law and in complete violation of principles of natural justice and the impugned order has to be set aside on the ground of irregular procedure that was followed by the first respondent and for want of *bona fides*. Accordingly, the impugned order passed by the first respondent, dated 02.03.2016 is set aside and the matter is remanded back to the first



W.P.(MD)No.22602 of 2018

respondent for considering the claim made by the petitioner afresh on merits. Both the petitioner as well as the second respondent are directed to appear before the first respondent on 30.04.2025 at 10.30 am without any further notice from the first respondent. The first respondent is further directed to conclude the proceedings and pass appropriate orders on merits and in accordance with law within a period two months from 30.04.2025.

6.In the result, the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

07.04.2025

Note: Issue order copy by 24.04.2025.

cmr

To

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

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W.P.(MD)No.22602 of 2018

MUMMINENI SUDHEER KUMAR, J.

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W.P.(MD)No.22602 of 2018

07.04.2025