



WP(MD)No.26144 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.26144 of 2019 and
WMP(MD)No.22601 of 2019**

The Management,
Kumbakonam Central Co-Operative Bank Limited,
Represented by its Managing Director / Joint Director,
Kumbakonam, Thanjavur District.

...Petitioner

Vs

- 1.The Appellate Authority (Commissioner),
Under the Payment of Gratuity Act,
Tiruchirappalli.
- 2.The Assistant Commissioner of Labour (Gratuity),
Controlling Authority under
Payment of Gratuity Act, 1972,
Office of the Deputy Commissioner of Labour,
Tiruchirappalli – 20.

3.S.Kaliyamoorthy

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari call for the records pertaining to the impugned order passed by the 1st respondent vide **ப.கொ.மே.மு.வ. எண்.36/2018/**, dated 14.05.2019 and quash the same.



WP(MD)No.26144 of 2019

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondent : Mr.S.Vinodh,
Nos.1 & 2 Government Advocate
For Respondent : Mr.K.Vadivel,
No.3 Legal Aid Counsel

ORDER

The petitioner / central co-operative bank has filed this writ petition as against the order passed by the 1st respondent appellate authority under the Payment of Gratuity Act in PGA.No.36 of 2018, dated 14.05.2019. The above application was filed by the 3rd respondent before the 1st respondent appellate authority. The 3rd respondent was an employee of the petitioner bank and he attained the age of superannuation on 31.07.2010. However, he was not allowed to retire, but he was relived from service on 31.07.2010. Thereafter without conducting any further proceedings as against the 3rd respondent, he was allowed to retire from service on 26.04.2011 and the gratuity amount was paid to him on 26.04.2011. Admittedly there is a delay in payment of gratuity amount to the 3rd respondent when he was relived from service on 31.07.2010. The 3rd respondent has filed an application under the Payment of Gratuity Act before the 2nd respondent in PG.No.387 of 2016



WP(MD)No.26144 of 2019

and the same was allowed by the 2nd respondent by order dated 31.07.2017 calculating the period of service of this petitioner in the Primary Agricultural Co-Operative Society from 24.01.1970 upto 14.09.1972. The 3rd respondent was initially engaged in the Primary Agricultural Co-Operative Society and thereafter he was engaged in the petitioner's bank vide GO.No.331 of 1998, dated 15.09.1972. The 2nd respondent while allowing the application filed by the 3rd respondent has directed the petitioner bank to pay the gratuity amount for this period also.

2.The 3rd respondent with a grievance that the gratuity amount has been paid belatedly, however it has not been paid with interest as stipulated under the Payment of Gratuity Act, has filed an appeal before the 1st respondent appellate authority under Section 7(7) of the Payment of Gratuity Act and the appellate authority allowed the same that the 3rd respondent is entitled for payment of gratuity from his date of appointment on 24.01.1970 together with interest as per Section 7(3-A) of the Payment of Gratuity Act. Aggrieved over this order, the petitioner bank has filed this writ petition.



WP(MD)No.26144 of 2019

3.The learned counsel for the petitioner bank submits that the orders of the original authority in PG.No.387 of 2016 dated 31.07.2017 has been challenged by the petitioner bank before this Court in WP(MD)No.22841 of 2017 and this court has taken a decision on 26.07.2021 by setting aside the order of the 2nd respondent in PG.No.387 of 2016, dated 31.07.2017. While so, the 1st respondent appellate authority is not having the jurisdiction to entertain the appeal as against the orders passed in PG.No.387 of 2016. The learned counsel by relying on the order dated 26.07.2021 passed in WP(MD)No.22841 of 2016 submits that the 3rd respondent employee was entitled for gratuity for a period of 20 months at his last drawn salary of Rs.39,660/- and it comes to Rs.7,93,200/-. However, he has been paid with sum of Rs.8,69,489/- including the interest. This amount according to the petitioner, is more and above the interest due for this belated payment from 31.07.2010 to 26.04.211. According to the learned counsel, since interest has already been paid for the belated payment of gratuity, this court has set aside the order passed by the 2nd respondent in PG.No.387 of 2016 and has also declared that the 3rd respondent is not entitled for gratuity for the period between the year 1970 and 1972.



WP(MD)No.26144 of 2019

4.The learned counsel for 3rd respondent submits that the order of this court in WP(MD)No.22841 of 2017 dated 26.07.2021 has been passed subsequent to the order dated 14.05.2019 passed by the 1st respondent in the appeal in PGA.No.36 of 2018. Therefore, according to the learned counsel the petitioner bank is not entitled to take advantage of the subsequent order and this order has been passed without any reference to the order of the appellate authority in PGA.No.36 of 2018, dated 14.05.2019. The learned counsel further submits that the 3rd respondent has been engaged by the petitioner bank in the primary agricultural co-operative society on 24.01.1970 and therefore, he is entitled for gratuity for this period from the year 1970 to 1972 also and that he is also entitled for interest for this belated payment of gratuity amount paid on 26.04.2011. When he has attained the age of superannuation, he was not allowed to retire on 31.07.2010, but he has been subsequently allowed to retire on 26.04.2011.

5.This court has considered the rival submissions made and perused the materials placed on record.



WP(MD)No.26144 of 2019

6.The 1st respondent appellate authority took the appeal in PGA.No.36 of 2018, which was filed as against the order of the 2nd respondent in PG.No.387 of 2016 dated 31.07.2017 and passed an order that the 3rd respondent is entitled for gratuity for the period from 1970 to 1972 and that he is entitled for interest for the belated payment. However, the management challenged the order of the original authority namely the 2nd respondent in PG.No.387 of 2016 before this court in WP(MD)No.22841 of 2017 and the same was disposed by order dated 26.07.2021 as under:

“3.It is common ground that the Petitioner has taken an insurance policy from Life Insurance Corporation of India covering liability to pay gratuity for the employees of the Petitioner in terms of Section 4-A of the Gratuity Act and that the said insurance policy contains the clause as extracted below:

“4. Sum assured:- The Sum Assured under the Pure Endowment Assurance shall be an amount equal to 15 days salary of the member as on the Entry Data or the Annual Renewal Date, as the case may be for each year of service upto the Normal Retirement Date subject to the maximum of 20 months salary....”



WP(MD)No.26144 of 2019

In terms of the said clause, the maximum amount of gratuity that the concerned employee is entitled is restricted to 20 months of his last drawn monthly salary of Rs. 39,660/- which would work out to Rs. 7,93,200/- in this case. Inasmuch as the First Respondent has admittedly received the sum of Rs.8,69,469/- from the Petitioner towards gratuity, which is higher than the said amount of Rs. 7,93,200/-, it is pointed out by the Learned Counsel for the Petitioner that the claim made before the Second Respondent for the additional amount of gratuity is plainly untenable. Learned Counsel for the First Respondent is not in a position to refute the corrections of aforesaid submissions made by the Petitioner, which unexceptionally deserves acceptance.

4.It is also brought to notice that in respect of employees similarly placed to the First Respondent, this Court in the common order dated 05.02.2020 passed in Review Application 132 of 2019 etc., batch has specifically adverted to this aspect of the matter specifying the ceiling on gratuity amount. Though it is informed that the Petitioner has preferred an appeal against the said common order in W.A. (MD) No. 799 of 2020 etc., batch before the Division Bench of this Court on certain other aspects, the concerned employees have



not chosen to challenge that order, meaning thereby that the ruling of the Court on the question of ceiling of 20 months salary as the maximum amount of gratuity, has attained finality and binds subsequent cases including the present matter.

5.Though several other contentions have been raised by Learned Counsel for both sides, it would not be necessary to delve into the same inasmuch as the said aspect on ceiling of gratuity amount clinches the dispute between the parties.

The result of the foregoing discussion is that the Writ Petition is disposed on the following terms:-

(i) the impugned order dated 31.07.2017 in P.G. No. 387 of 2016 passed by the Second Respondent is set aside;

(ii) the application in P.G. No. 387 of 2016 on the file of the Second Respondent shall stand dismissed;

(iii) consequently, the connected miscellaneous petition is closed; and

(iv) the parties shall bear their respective costs.”



WP(MD)No.26144 of 2019

7. Though this writ petition has been disposed of on 26.07.2021, the orders of the appellate authority has not been placed before the court either by the petitioner nor by the 3rd respondent. The 3rd respondent is also a party to the proceedings in WP(MD)No.22841 of 2017 and he is also represented by a counsel. In view of the above order passed by this court, that the 3rd respondent is entitled for only a sum Rs.7,93,201/- and the petitioner bank has also paid a sum of Rs.8,69,469/-, which is in excess of Rs.76,269/-, which is also more and above the interest for the belated payment of gratuity, this writ petition is allowed. The impugned order is set aside. Consequently connected miscellaneous petition is closed. No costs.

8. This court places its appreciation to the learned Legal Aid Counsel and the Legal Services Authority is directed to pay a sum of Rs.10,000/-(Rs.Ten Thousand) to the learned Legal Aid Counsel.

12.11.2025

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WP(MD)No.26144 of 2019

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- 3.The High Court Legal Services Authority,
Madurai Bench of Madras High Court,
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WP(MD)No.26144 of 2019

B.PUGALENDHI.J.,

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WP(MD)No.26144 of 2019

12.11.2025