



W.P.(MD) No.11855 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.11855 of 2017

and

W.M.P.(MD) No.9125 of 2017

The Managing Director,
The Thanjavur District Central
Cooperative Bank Limited,
Thanjavur.

... Petitioner

Vs.

1.N.Aavidaikutty

2.The Assistant Commissioner of Labour (Gratuity),
O/o. Deputy Commissioner of Labour,
Tiruchirappalli-20.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent vide P.G.No.329/2016, dated 16.12.2016 and quash the same.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.G.M.Xavier – for R1
: Mr.A.Baskaran,
Additional Govt. Pleader – for R2

ORDER

This writ petition has been filed against an order passed by the Respondent No.2-Controlling Authority under the provisions of the Payment of Gratuity Act, 1972 (hereinafter referred to as “the Act, 1972”) directing payment of gratuity to Respondent No.1.

2. Though an effective and efficacious alternate remedy of appeal is available under sub-section (7) of Section 7 of the Act, 1972, the petitioner approached this Court by filing this writ petition challenging the jurisdiction of the Respondent No.2 to entertain a claim for payment of gratuity otherwise than in terms of the provisions contained in the Act, 1972. In nutshell, it is the contention of the petitioner that Respondent No.2 lacks jurisdiction to entertain any claim for payment of gratuity otherwise than under the provisions of the Act, 1972.



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3. In view of the jurisdictional issue that was raised, this Court has entertained the writ petition and passed appropriate interim orders. Now that, the said issue is resolved by a Hon'ble Full Bench of this Court W.P.(MD) No. 4452 of 2013 etc., dated 30.10.2024 affirmatively holding that the Controlling Authority has got jurisdiction to entertain a claim for payment of gratuity not only under the Payment of Gratuity Act but under the other provisions in specific “better terms of gratuity”.

4. In the light of the conclusive decision of the Hon'ble Full Bench of this Court, such ground which is raised by the petitioner and the basis for entertaining this writ petition is no more available. In view of the same, this writ petition cannot be entertained in view of the alternate remedy available under sub-section (7) of Section 7.

5. Further, the learned counsel for the petitioner contended that the entitlement of the respondent No.1, to count the service rendered by him in the primary society for the purpose of payment of gratuity, is subject matter



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of pending litigation in W.A.(MD)Nos.799 to 814 of 2020 and batch, where an interim order is stated to have been passed by the learned Division Bench.

6. This Court has carefully perused the interim order passed by the learned Division Bench in the said Writ Appeals. The said Writ Appeals were preferred by the petitioner bank aggrieved by an order dated 05.02.2020 passed in Re.Aplw(MD)Nos.132 to 151 & 154 to 156 of 2019. A perusal of the order passed by the learned single Judge would disclose that the same was passed in the facts and circumstances of the said cases and taking into consideration the relevant appointment orders issued by the petitioner bank in favour of the parties to the said Writ Petitions. Therefore, the pendency of the above Writ Appeals is nothing to do with the dispute involved in this case.

7. In the light of the above, this Writ Petition is dismissed. The petitioner is granted liberty to file appeal within a period of four weeks from the date of receipt of a copy of this order and in case, if any such appeal is filed within the time stipulated above, the same shall be entertained by the



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learned Appellate Authority, however, without reference to the period of limitation prescribed under sub-section (7) of Section 7 of the Act, 1972 and the Rules. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

07.04.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

vsm

To

The Assistant Commissioner of Labour (Gratuity),
O/o. Deputy Commissioner of Labour,
Tiruchirappalli-20.



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MUMMINENI SUDHEER KUMAR, J.

vsm

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