



WEB COPY

WP No. 29325 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 29325 of 2024

&

WMP Nos. 31978 & 31977 of 2024

The General Manager,
State Express Transport Corporation Tn Ltd,
Pallavan Salai, Chennai -2.

..Petitioner

Vs

1. A.Vanaja Muniyan,
No. 5, Thillai Nagar, Bhuvanagiri T.K,
Cuddalore -608 601.
2. The Controlling Authority,
Under The Payment Of Gratuity Act, 1972-
cum-labour Officer(enforcement), Puducherry.
3. The Branch Manager,
M/s. State Express Transport Corporation TN
Ltd, Maraimalaiadigal Salai, Puducherry.
4. The Tahsildar,
Government Of Pudhucherry, Taluk Office,
Pudhucherry, 100 Feet Road, Mudaliarpeta,
Pudhucherry -605 004.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the 2nd respondent in G.A.No. 81 of 2019 dated 18.08.2023 and also order passed by the 4th respondent in proceedings number 3298/TOP/D/RR/2024 dated 08.08.2024 and quash the same .



For Petitioner(s):

Mr. S.S.Santhosa Kumar

For Respondent(s):

Mr. B.K. Girish Neelakantan,
for R1
Mr.V. Usha,
Addl. Govt. Pleader for R2 to R4

ORDER

This Writ Petition is filed praying for issuance of Writ of Certiorari to call for the records of the 2nd respondent in G.A.No. 81 of 2019 dated 18.08.2023 and also order passed by the 4th respondent in proceedings number 3298/TOP/D/RR/2024 dated 08.08.2024 and quash the same .

2. Learned counsel appearing for the petitioner would submit that the 1st respondent was employed with the petitioner Corporation as a Conductor in Puducherry Depot. He was appointed on 07.04.1989. He attained the age of superannuation on 31.05.2019 and he rendered totally 30 years of service with the 3rd respondent Depot. While the 1st respondent was in service, he took medical leave for the period of five years and thereafter, on attaining the age of superannuation on 31.05.2019, he got retired from his service. After retirement, excepting his gratuity payment, all the payments due to him were paid. On 16.02.2021, for the purpose of payment of gratuity, his period of service was calculated as 25 years ,the gratuity amount of Rs.6,54,231/- was paid to her for the reason that the employer has been absenting himself from



duty during his service period to the tenure of 5 years, hence, treating the absents period of 5 years as not servicing period, the same has not been included while calculating the gratuity payable to him. Without challenging the order passed by the petitioner, the 1st respondent approached the 2nd respondent claimed a gratuity of Rs.11,83,731/- for the entire period of her service under section 7(4) of the Payment of Gratuity Act, 1972 and the same was allowed by the 2nd respondent by awarding Rs.1,30,844/ towards balance gratuity along with interest at the rate of 10% per annum from the date of retirement and till the date of payment.

3. It is the contention of the petitioner that the 1st worked from 07.04.1989 till 31.05.2019 and during the course of his service, he took medical leave and did not come for employment intermittently from 1989-1990, 1990-1991, 2006-2007, 2007-2008 & 2018-2019 which comes around five years and therefore, gratuity was calculated by deducting the above said period treating it as non serving period as he is not entitled for payment of gratuity for such period. It is the case of the petitioner that by calculating the service of the 1st respondent herein, gratuity was accordingly calculated for the above period which was not rendered by her. The 2nd respondent has failed to take note of the fact that while granting pension payment order, the petitioner has specifically stated that the period of 5 years shall not be calculated for service and the said order was not challenged by the 1st respondent/employer, however,



the 2nd respondent without considering the 5 years break in service and without cancelling the service of the 1st respondent/employer for such non serving period, erroneously passed an order granting gratuity by including such non serving period of 5 years . Hence, the same is liable to be quashed.

4. Learned counsel appearing for the petitioner would submit that admittedly, the 1st respondent made an application for medical leave on medical ground for a period of five years and thereby the 5 years services were not regularised by the petitioner, however without considering the 5 years break in service, the 2nd respondent has ordered as it is, hence the claim of the 1st respondent is not sustainable one and accordingly he prayed for allowing the writ petition.

5. Learned counsel for the 1st respondent submitted that the Labour Court after proper adjudication of the facts and circumstances of the case, and after considering the fact that the petitioner neither passed any order giving break in service nor passed any order terminating the 1st respondent from service for his authorised absence, construed his services as continuous service and rightly awarded gratuity for his entire period of service. Hence the impugned order passed by the 2nd respondent is correct and is in order, therefore, the same is not liable to be interfered with. Accordingly, he prayed for dismissal of this writ petition.



6. Heard both sides and perused the materials available on record.

7. Admittedly, the 1st respondent rendered 30 years of service, however the gratuity amount was not paid for 30 years of service, thereby, the petitioner has made an application before the 2nd respondent for claiming the gratuity. The 2nd respondent after proper adjudication of the facts of the case, awarded a sum of Rs.1,30,844/- with interest at the rate of 10% per annum from the date of retirement till the date of deposit. Now, the petitioner claims that there was a break in service during her service for a period of 5 years and the same was taken into consideration and accordingly gratuity was calculated and the order was passed on 16.02.2021. However, subsequent orders after the retirement is not binding on the 1st respondent. After retirement, there is no Master and Servant relationship in between the petitioner and the 1st respondent. In the absence of any relationship, passing the order declaring the absented period as non serving period is not sustainable one and also not admissible one.

8. Moreover, the said issue has been elaborately dealt with by the 2nd respondent/Labour Court by considering sections 2A(1) and 4(6) of the Gratuity Act and accordingly, it came to the conclusion that the petitioner has not passed any order for break in service and also there was no termination of service of the 1st respondent on any of the grounds specified under Section



4(6) of the Gratuity Act. In the circumstances, the Labour Court has rightly construed the service of the 1st respondent as continuous, as such, the entire period of service of the 1st respondent is taken into account for the purpose of determination of gratuity. In such a view of the matter, this court is not inclined to interfere with the impugned order passed by the Labour Court. The Writ Petition is dismissed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

09-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

msr

To

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2. The Branch Manager,
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