



WEB COPY



W.P.No.33644 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2026

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33644 of 2024
and W.M.P.No.36417 of 2024

The Management of
M/s.Aura BPO Service Pvt. Ltd.,
No.5/9, Ramanujar Street,
Easwaran Avenue, Chitlapakkam,
Chennai – 600 064.

.. Petitioner

Versus

1. The Deputy Commissioner of Labour,
O/o. The Joint Commissioner of Labour – II,
Labour Welfare Board Building,
2nd Floor, DMS, Teynampet, Chennai – 600 006.

2. N.S.Madhan

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records culminating in the 1st respondent's order passed in P.G.No.70/2024, dated 03.09.2024 and quash the same..

For Petitioner : Mr.Rajasekaran

For Respondent : Mr.A.M.Ayyadurai,
Government Advocate for R1

: Mr.M.Selvalingam, for R2



W.P.No.33644 of 2024

ORDER

WEB COPY

This Writ Petition is filed challenging the impugned order of the first respondent passed in P.G.No.70 of 2024, dated 03.09.2024. By the said order, the first respondent, being the authority under the Payment of Gratuity Act, 1972, has directed the payment of gratuity, being a sum of Rs.4,67,743/- along with further interest.

2. Learned Counsel for the petitioner would submit that it is true that the second respondent was employed with the petitioner management. However, the second respondent, in violation of the terms of service, had shared and abused the data belonging to the Company. From the e-mails correspondences, it can be clear that the second respondent committed serious misconduct and the petitioner Company had issued a notice of termination terminating the services of the second respondent. In view thereof, the second respondent is not at all entitled for payment of gratuity.

3. Further, when the matter was taken up for enquiry before the first respondent, the petitioner Company was not granted any opportunity for filing counter. The first respondent directed the petitioner Company to immediately settle the gratuity and threatened to pass the order. Under the



W.P.No.33644 of 2024

said circumstances, the petitioner Company also made a representation, dated 20.02.2024. In spite thereof, the order was passed. Therefore, the learned Counsel for the petitioner would submit that the order has to be interfered with.

4. I have also heard the learned Counsel for the first respondent and the learned Counsel for the workman.

5. It is the case of the petitioner management that by the order, dated 10.01.2023, they terminated the services for the misconduct. Admittedly, if that is the case, the management should have placed on record the said termination order along with the other details. It can be seen that the management did not file any counter whatsoever and also stopped appearing before the first respondent, based on which, they were set *ex parte* and the impugned order was passed. In this regard, the learned Counsel relies upon the communication of the management, dated 20.02.2024. The following passage is extracted from the said communication:-

“Our management is aware that Gratuity has to be paid, but the same has been withheld since Mr. Madhan has been using the discussions held in Whatsapp



W.P.No.33644 of 2024

chat/group and Hangout chat/group created for official purpose, by sending them in mail to our employees. Once an employee has left the organization, all the datas in official groups has to be removed as per company policy, which is followed by all the organizations. The same is not followed here and he has not signed Letter of undertaking stating he does not possess any datas or documents pertaining to our organization – Aura BPO Services Pvt Ltd.”

6. Thus, even in the said communication, it was not the stand of the management that they have terminated the employee from the services on account of the misconduct and therefore, he is not entitled for gratuity. On the other hand, they themselves stated that they were aware that the gratuity is to be paid, but, they are withholding for the reasons mentioned therein. Further, the order of gratuity is also an appealable order before the appellate authority. The same is also not filed. Therefore, when the management, for the reasons best known to it, had not chosen to defend the gratuity claim and as a matter of fact, submitted before the first respondent authority that it is withholding the payment of gratuity for some purposes, those purposes legally unsustainable, no exception whatsoever can be taken for the order of the first respondent passing the impugned order.

7. Accordingly, finding no merits, this Writ Petition stands



W.P.No.33644 of 2024

dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

22.01.2026

Neutral Citation : no
grs

To

The Deputy Commissioner of Labour,
O/o. The Joint Commissioner of Labour – II,
Labour Welfare Board Building,
2nd Floor, DMS, Teynampet, Chennai – 600 006.



WEB COPY



W.P.No.33644 of 2024

D.BHARATHA CHAKRAVARTHY, J.

grs

W.P.No.33644 of 2024

22.01.2026