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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

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THE HON'BLE MR JUSTICE C. SARAVANAN

W.P.No.46945 of 2026

CNR: {HCMA012503332026}

Case QR

S.Kannan

..Petitioner(s)

Vs

1. The Controlling Authority,
   Under the payment of Gratuity Act, 1972,
   Assistant Commissioner of Labour
   Chennai-600 006.

2. M/s.Shanthi Enterprises Electricals (P)Ltd,
   Rep by its Director,
   No.37, Josier Street, Nungambakkam
   Chennai-600 034.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings in P.G.No.146/2024 on the file of the 1st respondent /Controlling Authority under the Payment of Gratuity Act, 1972, culminating in the impugned order dated 05.02.2026 and quash the same in so far as the 1st Respondent has failed to include the amount paid to the petitioner under the nomenclature “Other Allowances”, which in substance and reality constitutes Dearness Allowance, in the “wages” last drawn by the petitioner under section 2(s) of the payment of Gratuity Act, 1972, and consequently direct the 1st Respondent to determine the petitioner’s last drawn wages by including the aforesaid Dearness Allowance, and recompute the gratuity payable to the petitioner under section 4(2) of the Payment of Gratuity Act, 1972, taking the Petitioner’s qualifying service as 34 years, and to pay the resultant balance

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gratuity legally due to the petitioner along with the statutory interest under section 7(3A) of the payment of Gratuity Act, 1972, on the delayed balance amount.

For Petitioner(s): Mr.B.Divakaran

For Respondent(s): Mr.K.K.Ram Siddhartha
Additional Government Pleader
for R1

ORDER

Mr.K.K.Ram Siddhartha, learned Additional Government Pleader takes notice on behalf of the 1st Respondent.

2. This Writ Petition is disposed of at the time of admission, considering the fact that the Petitioner has an appellate remedy before the Appellate Authority under Section 7(7) of the Payment of Gratuity Act, 1972, against the impugned order of determination made by the 1st Respondent as a Controlling Authority.

3.Although the date is not specified in the body of the impugned order, it is dated 05.02.2026, and the limitation period under Section 7(7) read with Rule 18 of Payment of Gratuity (Central) Rules, 1972 has already expired. Since the Petitioner otherwise has an Appellate remedy, and considering the fact that the Petitioner was an employee who attained the age of superannuation while in the service of the 2nd Respondent on 31.07.2023

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after serving for more than 33 years and 7 months, I am inclined to dispose of this Writ Petition by granting liberty to the Petitioner to file an Appeal before the Appellate Authority in terms of Section 7(7) of the Payment of Gratuity Act, 1972 read with Rule 18 of the Payment of Gratuity (Central) Rules, 1972, within a period of thirty (30) days from the date of receipt of a copy of this order.

4. In case such an appeal is filed within such time, the Appellate Authority shall dispose of the appeal on merits without further reference to limitation.

5. This Writ Petition stands disposed of with the above liberty. No costs.

23-11-2026

Neutral Citation: Yes/No
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To

The Controlling Authority,
Under the payment of Gratuity Act, 1972,
Assistant Commissioner of Labour
Chennai-600 006.

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C.SARAVANAN, J.

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