

W.P.No.196 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.196 of 2023

and

W.M.P.No.183 & 184 of 2023

M/s.E-2657

Kizhkavarapet Primary Agricultural, Co-operative Credit Society,
Represented by its President, P.R. Pandiyan, Kizhkavarapet, Panruti Taluk,
Cuddalore District.

... Petitioner

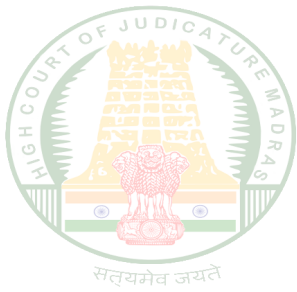
Vs.

1.The Controlling Authority Under Payment of Gratuity Act 1972,
Deputy Commissioner of Labour,
O/o. the Joint Commissioner of Labour-II,
DMS Campus DMS Subway,
Anna Salai, Teynampet,
Chennai - 600006.

2.S.Marimuthu,

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India
praying for issuance of a writ of Certiorari, call for the impugned order in
PG. No. 59 of 2017 dated 04.07.2018 and another subsequent bearing
number order D1/2651/2021 dated 22.10.2021 and quash the same.



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For Petitioner : Dr.S.Surya, AGP
For Respondents :
(for R1) : M/s.M.Jayanthi, AGP
(for R2) : M/s.P.K.Sivakumar

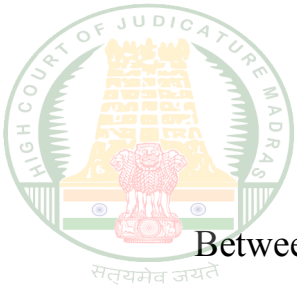
ORDER

The above Writ Petition is filed challenging the order passed by the 1st respondent herein in PG.No.59 of 2017 dated 04.07.2018.

2. The brief facts are as follows:-

3. The petitioner society is registered under the Tamil Nadu Cooperative Societies Act and is an autonomous and voluntarily formed association which is engaged in the business of banking and lending loans to the destitute and needy individuals. The 2nd respondent herein was appointed as a Writer in the petitioner society on 02.11.1987. After his appointment, he was given the responsibility of making notes, typing documents and assisting the operational and other administrative authorities.

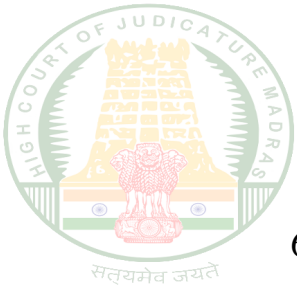
4. As the post of Secretary had fallen vacant and a new Secretary was to be appointed, the 2nd respondent was appointed to the said post.



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Between the years 2008 and 2010, he had misappropriated the funds of the society to the tune of Rs.5,21,656/- for which Surcharge Proceedings have been initiated against the 2nd respondent and others. On 29.06.2013, the petitioner society had issued a termination notice to the 2nd respondent. Against this termination notice, the 2nd respondent had filed a revision application under Section 153 of the Tamilnadu Cooperative Societies Act (hereinafter called as the "Societies Act") before the authority. The authority had dismissed the revision application on 30.12.2013.

5. After the dismissal of the revision filed under Section 153 of the Societies Act, the 2nd respondent had made a claim for payment of gratuity before the 1st respondent. The fact remains that the petitioner society was not covered under the Payment of Gratuity Act on account of the limitation in the number of employees and the absence of coverage in the bye-laws. The 2nd respondent was apprised of this fact, however, he proceeded with his claim and the 1st respondent by the impugned order had directed the petitioner herein to pay the gratuity to the tune of Rs.3,67,787/- to the 2nd respondent with interest at 10%. Challenging the same, the petitioner is before this Court.



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6. Dr.Surya learned counsel appearing on behalf of the petitioner society would submit that the application claiming gratuity before the 1st respondent was not maintainable and that apart having exhausted his remedy by filing revision petition under Section 153 of the Societies Act before the authority constituted under the Tamil Nadu Cooperative Societies Act and having failed, the 2nd respondent has filed the claim before the 1st respondent. She would further submit that it is only the authority under the Societies Act which has the jurisdiction and power to decide the issue and the authority under the Payment of Gratuity Act has no jurisdiction. Therefore, she would seek to have the order set aside.

7. Mr.P.K.Shivakumar, learned counsel appearing on behalf of the 2nd respondent/workman would submit that the Writ Petition is not maintainable as there is an appellate remedy available to the petitioner against the impugned order under the Payment of Gratuity Act.

8. Heard the counsels on either side.

9. Admittedly, the 2nd respondent has filed a revision under Section 153 of the Act challenging the order of termination. The authority has rejected the said revision. Having exhausted his remedy by filing a



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Revision Petition under Section 153 of the Tamil Nadu Cooperative Societies Act before the authority constituted under the Act and having failed, the 2nd respondent's claim before the 1st respondent is not maintainable.

10. The Division Bench of this Court in the judgement reported in **2008-4-L.W- 883 - P.Eswaramoorthy & others Vs. R.J.B.Leoraj an another** has held that Section 153 of the Act confers revisional authority on the Registrar or any competent authority constituted under the Act. Therefore, the employees of a Cooperative Society can approach the Registrar or any competent authority under Section 153 of the Act to revise any order passed by the Cooperative Society relating to disciplinary action taken against him or denial of promotion or wrong fixation of seniority, etc. That apart, the Payment Gratuity Act does not apply to the petitioner Society as the number of employees falls short of the threshold for the falling within the ambit of the Payment of Gratuity Act.

11. The claim of the 2nd respondent before the 1st respondent is therefore one without jurisdiction and the same cannot be sustained. Therefore, the Writ Petition stands allowed and the impugned order passed



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by the 1st respondent dated 04.07.2018 is set aside. It is well open to the

2nd respondent to approach the competent authority for the retirement

benefits if any available to him. No costs. Consequently, the connected

Miscellaneous Petitions are closed.

21.07.2025

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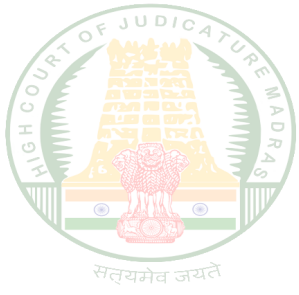
Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

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