



2026:KER:11529

W.P (C) No.34801/2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE GOPINATH P.

MONDAY, THE 9<sup>TH</sup> DAY OF FEBRUARY 2026 / 20TH MAGHA, 1947

WP(C) NO. 34801 OF 2025

PETITIONER/S:

M/S. KOSAMATTAM FINANCE LTD. ,  
4TH & 5TH FLOOR, KOSAMATTAM CITY CENTRE, T.B. ROAD,  
KOTTAYAM REPRESENTED BY MANAGING DIRECTOR MATHEW K.  
CHERIAN, PIN - 686001

BY ADVS.  
SRI.JOLLY JOHN  
SMT.LIZA MEGHAN CYRIAC  
SMT.C.S.RESHMI  
SHRI.RUBIN SHIBU  
SMT.TANIA MARIA JOY

RESPONDENT/S:

- 1 DEPUTY LABOUR COMMISSIONER,  
COLLECTORATE BUILDING, KK ROAD,  
KOTTAYAM - KUMILY RD, COLLECTORATE,  
KOTTAYAM, PIN - 686002
- 2 JOHN THOMAS,  
THUNDIL KARUTHEDATH, CHOOLATHERUVU P.O.,  
MUTHUKULAM NORTH, ALAPUZHA, PIN - 690508

BY ADVS.  
SRI.T.R.JAGADEESH  
SHRI.ADI NARAYANAN  
SHRI.JOSE JOB

OTHER PRESENT:

SRI. V.K SUNIL (GP)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
23.09.2025, THE COURT ON 09.02.2026 DELIVERED THE FOLLOWING:

**‘C.R’****J U D G M E N T**

The petitioner has approached this court challenging Exts.P7 and P8 proceedings of the Controlling Authority (the Deputy Labour Commissioner, Kollam) under the Payment of Gratuity Act, 1972 (hereinafter referred to as 'the 1972 Act), determining the claim of the 2<sup>nd</sup> respondent for gratuity on account of service rendered with the petitioner.

2. The learned counsel appearing for the petitioner submits that since the petitioner is admittedly an establishment having branches in more than one State, the claim of the 2<sup>nd</sup> respondent should have been considered by the Controlling Authority appointed by the Central Government and not by the Controlling Authority appointed by the State Government. The learned counsel for the petitioner referred to the provisions of Section 2(a) of the 1972 Act in support of his contention. It is also submitted that even going by the application submitted by the petitioner, he had rendered service in Theni branch of the petitioner, which is situated in Tamil Nadu State, and this itself shows that the matter has to be decided by the Controlling Authority appointed by the Central Government and not by the Controlling Authority appointed by the State Government.

3. The learned counsel appearing for the 2<sup>nd</sup> respondent submits that the petitioner had never taken this contention before the 1<sup>st</sup> respondent and



taking into consideration the view taken by this court in an unreported judgment dated 13-06-2024 in W.P (C) No.11133/2021, the failure to object is fatal to a claim being raised before this court that the Controlling Authority appointed by the State Government has no jurisdiction in the matter. It is also submitted that the petitioner has an effective alternative remedy against the impugned orders, and there is no ground made out for bypassing the alternative remedy by approaching this court directly in a writ petition under Article 226 of the Constitution of India.

4. Having heard the learned counsel for the petitioner and the learned counsel for the 2<sup>nd</sup> respondent, I am of the view that in the light of the provisions contained in Section 2(a) of the 1972 Act read with the definition of '*Controlling Authority*' under Section 2(d) of the 1972 Act and since it is admitted that the petitioner is an establishment having branches in more than one State, the Controlling Authority competent to consider any claim for payment of gratuity by any employee of the petitioner would be the Controlling Authority appointed by the Central Government and not the State Government. The 1<sup>st</sup> respondent, who decided the claim of the 2<sup>nd</sup> respondent, is admittedly an authority appointed by the State Government and therefore he had no jurisdiction to decide the claim of the 2<sup>nd</sup> respondent.

5. The contention raised by the counsel for the respondent in this case, in light of the judgment of this Court in W.P (C) No.11133/2021, is untenable.



The said judgment proceeds on its own facts. The judgment cannot be held as laying down any binding precedent. Further, it is settled law that jurisdiction cannot be conferred by consent, and even a party's consent cannot confer jurisdiction where none exists and the jurisdiction to pass a particular order must be found from the provisions of the statute itself. [See ***Sewalal Daga v. CIT, (1965) 55 ITR 406, Waverly Jute Mills Co. Ltd. v. Raymon & Co. (India) (P) Ltd., AIR 1963 SC 90, Suleman Noormohamed v. Umarbhai Janubhai, (1978) 2 SCC 179*** and ***Dodsal (P) Ltd. v. Delhi Electric Supply Undertaking, (2001) 9 SCC 339***]. Even the petition filed by the 2<sup>nd</sup> respondent indicates that the 2<sup>nd</sup> respondent had served the petitioner's establishment in its branch at Theni, which is situated in Tamil Nadu. Going by the provisions of Section 2(a) read with the provisions of Section 2(d) of the 1972 Act, the 1<sup>st</sup> respondent ought to have concluded, after noticing the said averment of the 2<sup>nd</sup> respondent, that he had no jurisdiction to consider the claim for payment of gratuity. Thus, the failure of the petitioner to object to maintainability is not fatal.

6. The contention of the learned counsel for the 2<sup>nd</sup> respondent that the petitioner has an effective alternative remedy does not compel me to deny relief to the petitioner as it is settled law that where an order is challenged on account of lack of jurisdiction, the existence of alternative remedy is not a bar for the exercise of jurisdiction under Article 226 of the Constitution of India.



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7. Accordingly, this writ petition is allowed. Exts.P7 and P8 orders are quashed. It is made clear that this will not prevent the 2<sup>nd</sup> respondent from raising his claim before the Controlling Authority appointed by the Central Government. It is also made clear that if such a claim is raised by the 2<sup>nd</sup> respondent before the Controlling Authority appointed by the Central Government, the said authority will decide on such application without undue delay.

The writ petition is ordered accordingly.

Sd/-  
**GOPINATH P.**  
**JUDGE**

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APPENDIX OF WP(C) NO. 34801 OF 2025

**PETITIONER EXHIBITS**

- Exhibit P1 TRUE COPY OF THE FIXED TERM CONTRACT APPOINTMENT LETTER 02.05.2013 ISSUED BY THE PETITIONER TO THE RESPONDENT NO: 2
- Exhibit P2 TRUE COPY OF FORM -I (APPLICATION FOR PAYMENT OF GRATUITY) DATED 24.11.2022 FILED BY RESPONDENT NO: 2 BEFORE THE 1 ST RESPONDENT AUTHORITY.
- Exhibit P3 THE TRUE COPY OF THE WRITTEN STATEMENT 4 OCTOBER 2023 FILED BY THE PETITIONER MANAGEMENT BEFORE THE 1 ST RESPONDENT IN G C 19/2023.
- Exhibit P4 THE TRUE COPY OF THE PROOF AFFIDAVIT DATED 6 DECEMBER 2023 SUBMITTED BY THE SECOND RESPONDENT BEFORE THE 1 ST RESPONDENT IN G C 19/2023
- Exhibit P5 THE TRUE COPY OF THE ORDER DATED 31 ST DAY OF JANUARY 2025 PASS BY DEPUTY LABOUR COMMISSIONER KOLLAM IN GC NUMBER 171/2023 IN WHICH THE PETITIONER HEREIN IS A RESPONDENT
- Exhibit P6 THE TRUE COPY OF THE ORDER DATED 4 APRIL 2024, BY THE DEPUTY LABOUR COMMISSIONER, CONTROLLING AUTHORITY UNDER PAYMENT OF GRATUITY ACT CALICUT IN GC NUMBER 125/2023.
- Exhibit P7 THE TRUE COPY OF THE ORDER DATED 12.03.2025 PASSED BY THE 1 ST RESPONDENT IN GC G.C NO. 19/2023
- Exhibit P8 THE TRUE COPY OF THE CORRECTION ORDER DATED 31 ST MAY 2025 TO EXHIBIT P-7 ISSUED BY THE 1 ST RESPONDENT

**RESPONDENT EXHIBITS**

- Exhibit R2(1) True copy of judgment dated 13 Jun 2024 in WPC No. 11133 of 2021