

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE Dr.JUSTICE P.DEVADASS

W.A.No.30 of 2016
and
C.M.P.No.417 of 2016

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai.
 2. The Zonal Officer,
(The Assistant Commissioner)
Zone No.VII, Ambattur,
Corporation of Chennai,
Chennai-600 058.
(formerly known as
The Commissioner,
Ambattur Municipality,
Ambattur, Chennai-600 058) ...Appellants/Respondent 1 & 2
- Vs.
- N.Janakiraman ...Respondent/Petitioner

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 26.03.2015 passed in W.P.No.6531 of 2015.

W.P.No.6531 of 2015 dated 26.03.2015 : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the 2nd respondent to comply with the order passed by the controlling Authority under the payment of Gratuity Act 1972 (The Assistant Commissioner of Labour - II) in P.G.No.21 of 2014 dated 30.06.2014 and further direct the 2nd respondent to disburse the gratuity amount with interest.

For Appellants : Ms.Karthikaa Ashok

For Respondent : Mr.R.Karthigeyan

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 26th March, 2015 passed in W.P.No.6531 of 2015.

2. The writ petitioner/ respondent herein sought a direction to the second appellant herein to comply with the order passed by the Controlling Authority under the Payment of Gratuity Act, 1972 / The Assistant Commissioner of Labour-II in P.G.No.21 of 2014, dated 30th June, 2014, by way of the instant writ petition.

3. The learned Single Judge, recording the fact that the order dated 30th June, 2014 passed by the Controlling Authority remains unchallenged and as such, the same became final, directed the second appellant herein to make payment, as directed by the Controlling Authority, with interest at the rate of 9% per annum. Thus, the instant appeal by the Corporation of Chennai.

4. The contention of the learned counsel for the appellants is that there being a provision for filing a statutory appeal against the order passed by the Controlling Authority before the appellate authority, the learned Single Judge ought to have dismissed the writ petition, giving liberty to the writ petitioner to approach the appellate authority for compliance of the order passed by the Controlling Authority. It is also contended that the Corporation ought to have been given time to take up the matter to the appellate authority as the order was passed *exparte* without affording an opportunity of hearing to the Corporation. The writ petitioner had already received the full payment in accordance with the Government orders.

5. Be that as it may, if the Corporation / appellants herein were not satisfied with the order passed by the Controlling Authority in exercise of its statutory obligation, it is for the Corporation to prefer an appeal within the stipulated period. The writ petitioner / respondent herein, despite obtaining the order from the competent statutory authority, had no other alternative, but to approach this court for a direction to comply with the order. The Controlling Authority passed the order way back on 30th June, 2014, directing the second appellant herein to pay sum of Rs.1,22,510/- within a period of thirty days with interest. Despite receiving the order, the second appellant had neither chosen to take the matter to the statutory appellate authority or to comply with

the order. The non compliance of the order made the writ petitioner to file the instant writ petition on 4th March, 2015, almost after a period of eight months, seeking such a direction.

6. In such facts and circumstances of the case, the learned Single Judge had rightly issued a direction to pay the amount confirmed by the Controlling Authority by order dated 30th June, 2014 in P.G.No.21 of 2014 with interest at the rate of 9% per annum. The impugned order of the learned Single Judge is unexceptionable, warranting no interference.

7. Resultantly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vvk

To

1. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai.
2. The Zonal Officer,
(The Assistant Commissioner)
Zone No.VII, Ambattur,
Corporation of Chennai,
Chennai-600 058.

+1cc to Ms.Karthikaa Ashok, Advocate, S.R.No.2797

W.A.No.30 of 2016

AD(CO)
CA(03/02/2016)

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