

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2016

Coram

The Hon'ble Mr. Justice T.S.SIVAGNANAM

Writ Petition No.6491 of 2016

&

W.M.P.Nos.5772 and 5773 of 2016

The Commissioner
Mettur Municipality
Salem District

...Petitioner

Vs.

1.The Assistant Commissioner
of Labour, Labour Court
Salem District

2.Mr.S.Vanchi

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of certiorari to call for the records and to quash the impugned order passed by the 1st respondent in P.G.Case No.46/13 dated 12.08.2014.

For Petitioner : Ms.P.Rajalakshmi

For Respondents : Mr.R.Rajeswaran, Spl.G.P for R1

O R D E R

Petitioner-Municipality has filed this writ petition challenging the order passed by the 1st respondent exercising jurisdiction under the provisions of Payment of Gratuity Act, 1972.(hereinafter referred to as the 'Act')

2. Admittedly, in terms of Section 7 the Act, the petitioner has an effective alternative remedy by way of appeal before the Appellate Authority under the Act and without exhausting the same, the petitioner cannot challenge the order passed by the 1st respondent, by way of writ petition. That apart, in terms of Second Proviso under Section 7(1) unless and until the petitioner deposits the entire amount before the 1st respondent, they cannot file an appeal before the Appellate Authority. Faced to this situation, learned counsel for petitioner submitted that liberty may granted to the petitioner Municipality to approach the Appellate Authority on depositing the entire amount before

the 1st respondent as computed in P.G.Case.No. 46 of 2013 dated 12.08.2014.

3. In the light of the above, while holding the writ petition is not maintainable at this stage, liberty is granted to the petitioner to approach the Appellate Authority, after depositing the entire amount before the 1st respondent. If the same is done, the Appellate Authority shall consider the Appeal petition and pass orders on merits and in accordance with the provisions of the Act.

4. Writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner of Labour
Labour Court
Salem District

+ 1 cc to Government Pleader Sr.11355

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