



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Twenty Fifth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) No.9305 of 2016
IN
WA(MD) No.164 of 2016

R.PARAMASIVAN

..PETITIONER/1ST RESPONDENT/
1ST RESPONDENT

Vs.

1 THE COMMISSIONER
MUNICIPALITY PULIYANKUDI,
SIVAGIRI TALUK,
TIRUNELVELI DISTRICT.

..1ST RESPONDENT/PETITIONER/
APPELLANT

2 THE LABOUR COURT
TIRUNELVELI,
TIRUNELVELI DISTRICT.

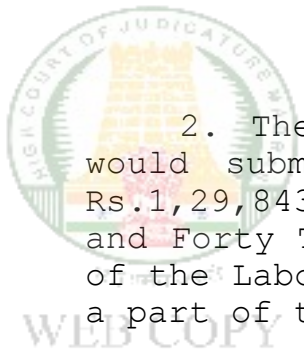
..2ND RESPONDENT/2ND RESPONDENT/
2ND RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the interim stay granted on 25.01.2016 in CMP.(MD). No.838/2016 in W.A.(MD).No.164/2016.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioner and of Mr.A.K.BASKARA PANDIAN, Special Government Pleader for R1, the court made the following order:-

(Order of the Court was made by M.SATHYANARAYANAN,J.)

The Vacate Stay Petitioner had filed I.D.No.28 of 2004 praying for reinstatement and other consequential reliefs and it was ordered as prayed for on 25.01.2008. Challenging the same, the appellant herein had filed W.P(MD)No.5574 of 2008 and it was also dismissed, vide order dated 10.09.2012, however, with some liberty. Thereafter, the Vacate Stay Petitioner herein filed C.P.No.6 of 2014 praying for payment of backwages for the period between 01.06.1999 and 05.05.2006 under Section 17(b) of the Industrial Disputes Act and it was also ordered.



2. The learned Counsel for the Vacate Stay Petitioner herein would submit that the appellant herein had deposited a sum of Rs.1,29,843/- (Rupees One Lakh Twenty Nine Thousand Eight Hundred and Forty Three only) to the credit of C.P.No.6 of 2014 on the file of the Labour Court, Tirunelveli and he may be permitted to withdraw a part of the same as he is out of employment from 1999.

3. Per contra, Mr.Mohd.Mohideen, learned Addl.Government Pleader appearing for the first respondent/appellant - Municipality would submit that it is a case of desertion and even for claiming backwages, the Vacate Stay Petitioner herein did not prove that he was out of employment and therefore, he is not entitled to withdraw any amount.

4. This Court, in the facts and circumstances of the case, is of the view that the Vacate Stay Petitioner herein is entitled to withdraw some portion of the amount deposited by the first respondent/appellant - Municipality.

5. In the result, this Civil Miscellaneous Petition is disposed of, by permitting the Vacate Stay Petitioner herein to withdraw a sum of Rs.50,000/- (Rupees Fifty Thousand only) out of Rs.1,29,843/- (Rupees One Lakh Twenty Nine Thousand Eight Hundred and Forty Three only) lying to the credit of C.P.No.6 of 2014 on the file of the Labour Court, Tirunelveli.

6. At this juncture, the learned Counsel for the Vacate Stay Petitioner herein would submit that till the disposal of the main writ appeal, the first respondent/appellant - Municipality will not get along with the main writ petition and therefore, the main writ appeal in W.A.(MD)No.164 of 2016 can be disposed of in the light of the order passed in this Civil Miscellaneous Petition, for which, Mr.Mohd. Mohideen, learned Addl.Government Pleader appearing for the first respondent/appellant - Municipality, has no objection. The said submissions are placed on record.

sd/-

25/11/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE COMMISSIONER, MUNICIPALITY, PULIYANKUDI, SIVAGIRI TALUK, TIRUNELVELI DISTRICT.
- 2 THE LABOUR COURT, TIRUNELVELI, TIRUNELVELI DISTRICT.

ORDER IN

CMP(MD) No.9305 of 2016
IN WA(MD) No.164 of 2016
Date :25/11/2016