



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :13.06.2016
CORAM
THE HONOURABLE MR.JUSTICE T.RAJA

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W.P(MD)No.6344 of 2015
and
M.P.(MD)No.1 of 2015

M.Veerasamy

.. Petitioner

vs.

1.The Government of Tamilnadu,
Department of Labour & Employment,
represented by its Secretary,
Fort St. George, Chennai-9.

2.The Management of
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd.,
represented by its Managing Director,
Karaikudi Region,
Karaikudi.

.. Respondents

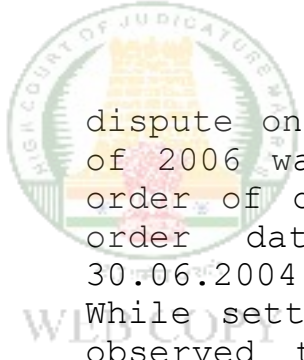
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the first respondent to initiate prosecution under Section 34 of the I.D.Act., 1947 against the second respondent for having committed offences under Section 25-U and 29 of the I.D. Act 1947 by failing to implement the award dated 09.02.2011 in I.D.No.20/2006 passed by the Labour Court, Madurai.

For Petitioner :Mr.S.Arunachalam
for RM.Sivakumar
For Respondents :Mr.D.Sivaraman

ORDER

This Writ Petition has been filed seeking a Writ of Mandamus directing the first respondent to initiate prosecution under Section 34 of the I.D.Act., 1947 against the second respondent for having committed offences under Section 25-U and 29 of the I.D. Act 1947 by failing to implement the award dated 09.02.2011 in I.D.No.20/2006 passed by the Labour Court, Madurai.

2. The petitioner was dismissed from service by order dated 28.02.2002 for having caused repeated fatal accidents. However, the order of dismissal was put to challenge on the ground of violation of principles of natural justice by raising industrial



dispute on the file of the Labour Court, Madurai. The I.D.No.20 of 2006 was finally allowed on 09.02.2011, by setting aside the order of dismissal. Although, he was dismissed from service by order dated 28.02.2002, he reached the superannuation on 30.06.2004. Therefore, the relief of reinstatement was refused. While setting aside the punishment of dismissal, the Labour Court observed that the petitioner was entitled to only retirement benefits and other legal dues. Since there was a direction in the award to disburse the above benefits to the petitioner, it is clearly made that he was not entitled to any backwages and he is entitled to continuity of service for the purpose of claiming certain benefits. Finally, the Transport Corporation also without challenging the said award has come forward to implement the same and as a part of implementation, the gratuity of the petitioner was already disbursed on 02.05.2016. But the rest of the retirement benefits have not been disbursed. Therefore, the petitioner has come to this Court with this Writ Petition.

3. Mr.D.Sivaraman, learned Counsel appearing for the respondents fairly submitted that part of his retirement benefits viz., gratuity was already disbursed to him on 02.05.2016 and the rest of the retirement benefits would be disbursed in the light of the judgment of a Division Bench of this Court in W.A.(MD).Nos.383 to 457 of 2015 dated 12.06.2015.

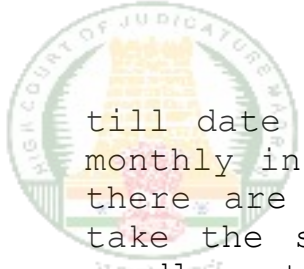
4. For ready reference, the judgment passed by the Hon'ble Division Bench in W.A.(MD).Nos.383 to 457 of 2015 dated 12.06.2015 is extracted hereunder:

"The learned Additional Advocate General submits that he has obtained written instructions vide letter No.7945/E/2015-2 dated 11.06.2015 that the terminal benefits of the appellants would be settled through twelve equal monthly installments, carrying interest of 6% p.a.

2. The said statement is thus taken on record and the respondents will be bound by the same, we have to keep in mind the judicial pronouncement of the Honourable Supreme Court in D.D.TEWARI (D) THR. LRS. Vs. UTTAR HARYANA BIJLI VITRAN NIGAM LTD & ORS {2014 (9) SCALE - 78}, wherein it is held that in case of any delay in making the payment of the installments, the interest payable would become 18% p.a., for the delayed period apart from any other remedy which may be available to the appellants for non-compliance of undertaking given to this Court.

3. The installments to be paid from July 2015 and each installment should be paid on or before 7th of each month"

<https://hcservices.equityindia.com/> 5. For ready reference, the judgment of the Hon'ble Division Bench of this Court referred to above, the respondents are directed to pay the amount whatever the balance liable to be paid to the petitioner



till date that have not been paid, to the petitioner in 12 equal monthly installments commencing from 10th July, 2016. Further, if there are settlements or awards, the Corporation is obliged to take the same into account while arriving at the figure. It is needless to mention that the entire arrears shall carry interest at the rate of 6% per annum. In case of delay in making installments, the interest payable could be 18% for the delayed period.

6.The aforesaid direction to settle the terminal benefits would not preclude the workman to question the computation of any of the terminal benefits, if the same is paid lesser than the amount to which, he is entitled to receive. Likewise, if the petitioner has any grievance that he is entitled to interest for the amount already settled, he can agitate the same as per law, if he is entitled to.

7.The learned counsel for the respondents/Transport Corporation says that against certain employees, there are recoveries from them. So, the above payment may be made subject to recoveries, if any, from the employees. The petitioner is also agreeable for the same.

8. Mr.D.Sivaraman learned Counsel appearing for the respondents also made a submission before this Court that for disbursement of the petitioner's monthly pension, proposal has already been sent to the Administrator.

9. Therefore, the respondents shall take steps to disburse the same as expeditiously as possible.

10.With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To

The Government of Tamilnadu,

Department of Labour & Employment,

represented by its Secretary, Fort St. George, Chennai-9.

+1 cc to M/s.S/Arunachalam, Advocate in SR.No.30057

+1 cc to M/s.D.Sivaraman, Advocate in SR.No.29999

W.P. (MD) No. 6344 of 2015

13.06.2016