

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.12337 OF 2017 &
WMP Nos. 13103 of 2017

S.Manimozhi

[PETITIONER]

Vs

- 1 Tamil Nadu Civil Supplies Corporation
Rep. by its Managing Director
10 Thambuswamy Road, Chennai 10
- 2 Tamil Nadu Civil Supplies Corporation
Rep. by Senior Regional Manager
Chennai North Region, Chennai 86
- 3 The Assistant Commissioner of Labour Cum
Controlling Authority Under Payment of Gratuity Act
O/o. the Labour Commissioner, Chennai 6.
- 4 The Joint Commissioner of Labour Cum
Appellate Authority Under Payment of Gratuity Act 1972
Labour Welfare Building
6th Floor, Teynampet, Chennai 6.

[RESPONDENTS]

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to forbear the 4th respondent from proceeding further with the P.G Appeal No. 130 of 2017 preferred by the 2nd respondent against order dated 18.11.2016 of the 3rd respondent passed in P.G. No. 10 of 2016 under payment of Gratuity Act 1972 by virtue of 4th respondent summons dated 26.04.2017.

For Petitioner :Mr.S.Venkataraman

For Respondents :Mr.P.Paramasivadosh - R1 & R2
Mr.S.Gunasekaran, Additional-R3 & R4
Addl. Govt. Pleader

O R D E R

The relief sought for in this Writ Petition is to forbear the fourth respondent from proceeding further with the P.G Appeal No. 130 of 2017 preferred by the second respondent

against order dated 18.11.2016 of the third respondent passed in P.G. No. 10 of 2016 under payment of Gratuity Act 1972, by virtue of fourth respondent summons dated 26.04.2017.

2.The learned counsel for the writ petitioner contended that the fourth respondent- Joint Commissioner of Labour Cum Appellate Authority under the Payment of Gratuity Act, 1972, entertained the appeal filed by the Tamil Nadu Civil Supplies Corporation represented by the Senior Regional Manager in P.G.Appeal 130 of 2017. It is the submission of the learned counsel that the second respondent ought not to have preferred such an appeal, in view of the Circular issued by the first respondent on 25.09.2008 and thus, the second respondent has violated the resolution passed by the Board in this regard.

3.The learned counsel for the respondents opposed the contentions by stating that the Appeal filed under the provisions of the Act in P.G.A. No. 130 of 2017, is the Statutory Appeal and the fourth respondent herein is the Appellate Authority under the Act. Such being the position, the prayer in the writ petition is absolutely misconceived and the right of the Department in filing the Statutory Appeal, cannot be denied or prevented by the writ petitioner in this regard .

4.Considering the facts and circumstances of the case, this Court is of the firm opinion that filing an Appeal under the Statute is a right of the parties, which cannot be taken away by either of the parties or by the authorities. The remedies are provided to the litigants and the citizens to redress their grievances before the authorities concerned. When the Act itself provides a provision for appeal and such an appeal is preferred by any one of the parties, the other party has no locus standi to file a writ petition, with the prayer to forbear the Appellate Authority from preferring an appeal.

5.In the case on hand, the fourth respondent is the appellate authority and the prayer sought for in this Writ Petition is to forbear the fourth respondent from proceeding with P.G.A No.130 of 2017. The consequences of considering this writ petition will be certainly not preferable, in view of the fact that the rights of the parties challenging the order against which they are aggrieved, cannot be curtailed in normal circumstances. Only on exceptional circumstances in order to prevent causing any injustice to either of the parties, such a relief can be entertained.

6.Statutory Appeal is provided under the Payment of Gratuity Act, 1972, which is an Act enacted by the Parliament. Such a power granted by way of the Act cannot be taken away by the Board. Therefore, Circular issued by the Board have no

relevance in respect of the Appeal preferred before the fourth respondent and the fourth respondent is free to proceed with the Appeal, adjudicate the same and pass final orders at the earliest possible to give a quietus to the issue.

Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rpa

To

- 1 The Managing Director
Tamil Nadu Civil Supplies Corporation
10 Thambuswamy Road, Chennai 10
- 2 The Senior Regional Manager
Tamil Nadu Civil Supplies Corporation
Chennai North Region, Chennai 86
- 3 The Assistant Commissioner of Labour Cum
Controlling Authority Under Payment of Gratuity Act
O/o. the Labour Commissioner, Chennai 6.
- 4 The Joint Commissioner of Labour Cum
Appellate Authority Under Payment of Gratuity Act 1972
Labour Welfare Building
6th Floor, Teynampet, Chennai 6.

+1cc to Mr.P.Parasiva Doss, Advocate, S.R.No.57837
+1cc to Mr.S.Venkata Raman, Advocate, S.R.No.58114
+1cc to the Government Pleader, S.R.No.57925

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GN(07/09/2017)