

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.34195 of 2016

Tiruvannamalai District Consumer
Co-operative Wholesale Stores Ltd.,
rep by its Managing Director
No.34 A, Gandhi Nagar
Tiruvannamalai
Tiruvannamalai District ... Petitioner

-vs-

1. The Authority under the Payment of
Gratuity Act / Assistant
Commissioner of Labour
Vellore
2. P.Gopal
3. Vellore District Consumer
Co-operative Wholesale Stores Ltd.,
rep by its Managing Director
Anna Salai, Vellore 632 001 .. Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, calling for the
records of the order passed by first respondent in P.G.No.219 of
2013 dated 14.08.2015, quash the same.

For Petitioner :: Mr.M.S.Palaniswamy

Mr. M. Elumalai, GA for R1

For Respondents :: Mr.Balan Haridas for R2

Mr.M.S.Palaniswamy for R3

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ORDER

Tiruvannamalai District Consumer Co-operative Wholesale
Stores Limited represented by its Managing Director has filed
this writ petition questioning the correctness of the order
passed by the Authority under the Payment of Gratuity
Act/Assistant Commissioner of Labour, Vellore in P.G.No.219 of
2013 dated 14.8.2015, in and by which the petitioner society was
directed to pay a sum of Rs.5,06,121/- to the second respondent,

only on the limited ground that except a sum of Rs.87,946.20, the petitioner society is prepared to pay the balance amount, however, since the second respondent had already given a written undertaking for adjusting a sum of Rs.87,946.20, he is not entitled to claim the said amount.

2. But this Court hardly finds any merit in the writ petition, for the following reasons. Firstly, the petitioner, having suffered an order, had a right of preferring statutory appeal within sixty days from the date of receipt of the order and/or with a delay of sixty days by moving appropriate application showing sufficient cause to condone the delay. But in the present case, no appeal whatsoever was filed. Therefore, the petitioner cannot come to this Court. Secondly, when it is the case of the petitioner that the second respondent had already executed a bond with a condition that after verification of the entire record, the said amount can be adjusted, till date, no order whatsoever has been passed by the petitioner on what basis the said amount of Rs.87,946.20, as undertaken by the second respondent for adjustment, has been found as a loss to the third respondent society. Thirdly, the third respondent society also had issued a no due certificate on 28.5.2012. Since the no due certificate issued by the third respondent is subsequent to the undertaking given, it goes without saying that there is no dues from the second respondent. Therefore, it is not open to the petitioner to claim that there is an undertaking given by the second respondent for adjusting a sum of Rs.87,946.20. Accordingly, the writ petition fails and it is dismissed. Learned counsel for the petitioner stated that a sum of Rs.4,18,174.80 had already been paid as per the interim order passed by this Court. Therefore, the balance amount of Rs.87,946.20 shall be paid to the second respondent within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar

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Sub Assistant Registrar

ss

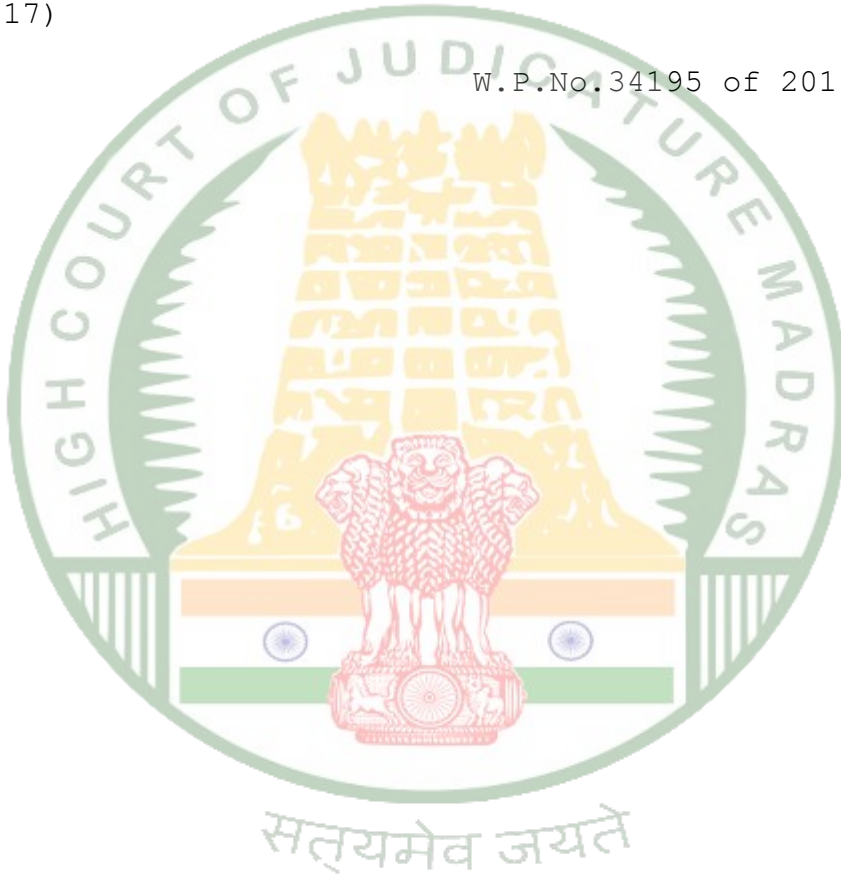
To

1. The Assistant Commissioner of Labour /
Authority under the Payment of Gratuity Act
Vellore

+1cc to Mr.M.S. Palanisamy, Advocate, S.R.No.11714
+1cc to Mr.Balan Haridas, Advocate, S.R.No.11256
+1cc to the Government Pleader, S.R.No.12163

ca (CO)
md(2/05/2017)

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