

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.27754 of 2018

and

WMP.No.32298 of 2018

Universal Transport Service,
A Partnership firm Rep.by Partner,
C.Ravindran

.. Petitioner

vs.

1.A.Ezhil
2.The Controlling Authority-cum-Labour Officer,
Karaikal.

.. Respondents

Prayer.: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the second respondent to number the petition filed by the petitioner under Order IX Rule 13 r/w Section 151 of C.P.C. to set aside the exparte order dated 16.07.2018 and dispose the same on merits in a time frame.

For Petitioner : Mr.R.Sunil Kumar

For R2 : Mr.D.Ravichander
Addl.Govt.Pleader.

सतगमेव जयते
O R D E R

The petitioner has filed the Writ Petition seeking a direction to the second respondent to number the petition under Order IX Rule 13 r/w Section 151 of C.P.C. to set aside the exparte order dated 16.07.2018 and dispose the same on merits .

2. Notice sent to the first respondent and the same was returned with an endorsement "refused". Mr.D.Ravichander, learned Additional Government Pleader takes notice for the second respondent .

3. According to the learned counsel for the petitioner, the petitioner is running the Transport Service along with one

Mr.C.Mahindran for the last 15 years in Karaikal. On 01.09.2007, the 1st respondent joined with the petitioner as conductor and worked for a period of two years and thereafter left the employment. Again, the 1st respondent rejoined the service with the petitioner during 2010 as Ticket Checker on part time basis. He was not a permanent employee of the petitioner. The 1st respondent was terminated his service on 20.05.2016 due to his absence from duty for several months on account of illness. On 27.03.2017, the first respondent filed an application under Section 7(4) of the Payment of Gratuity Act, 1972 r/w Rule 10(1) of Puducherry Payment of Gratuity Rules, 1973 before the Controlling Authority cum Labour Officer, Karaikal. The said application was numbered as P.G.Case No.04/2017 and subsequently, an exparte order was passed against the petitioner on 16.07.2018, directing the petitioner to pay a sum of Rs.1,64,426/- as gratuity along with interest at the rate of 10% p.a. from 01.05.2016 till the date of realisation within 30 days to the 1st respondent. On 14.08.2018, the petitioner was filed a detailed affidavit along with a petition to set aside the exparte order under O.IX Rule 13 r/w Section 151 of C.P.C. The said application was received and the same was unnumbered. At the stage, the petitioner has filed the present writ petition for the aforesaid prayer to consider the said application and direct the second respondent to number the aforesaid application and dispose the same on merits.

4. The learned counsel for the second respondent would submit that the said application may be ordered and the same shall be considered in accordance with law. Therefore, the petitioner seeks limited scope of the prayer in the writ petition.

5. Considering the facts and circumstances of the case, this Court is inclined to pass the following orders:

i) The petitioner filed an application to set aside the exparte order under Order IX Rule 13 r/w Section 151 of C.P.C. on 14.08.2018 before the second respondent and the second respondent is directed to take the same on its file, if it is otherwise in order .

ii) In the event of the said application is in order, the second respondent is directed to number the said application and pass appropriate orders on merits and in accordance with law after affording due opportunity of hearing to the petitioner as well as any of the interested parties, as expeditiously as possible.

With the above directions, this writ petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kkd

To

The Controlling Authority-cum-Labour Officer,
Karaikal.

+1cc to Mr.R.SunilKumar, Advocate, S.R.No.80001
+1cc to the Government Pleader for Puducherry, S.R.No.79708

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rrs 26/11/2018



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