



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**W.P. (MD) No.17689 of 2017
and
W.M.P. (MD) No.14226 of 2017**

The Management,
P.R.Srinivasan & Sons,
represented by Partner,
Mr.P.R.S.Srinivasan

... Petitioner

Vs.

1. The District Collector,
Tuticorin District,
Tuticorin.
2. The Controlling Authority,
Under the Payment of Gratuity Act,
(Assistant Labour Commissioner)
(Tirunelveli)
Camp at Tuticorin,
Tuticorin.

3.Murugan

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent dated 02.08.2017 in his Na.Ka.J1/18009/2017 and quash the same and to direct the second respondent to pass orders on the I.A. Filed under Order - IX Rules - 7 of the C.P.C. To set aside the ex-parte order dated 09.03.2017 and hear the P.G.No.3 of 2016 on merits.

For petitioner : Mr.M.MD.Ibrahim Ali

For R1 & R2 : Mr. K.Saravanan
Government Advocate

For R3 : No Appearance

**O R D E R**

Heard Mr.M.MD.Ibrahim Ali , learned Counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the respondents 1 and 2.

2.The writ petitioner is an establishment in which the third respondent herein was employed for more than two decades. The third respondent filed an application for payment of Gratuity before the Controlling Authority. Admittedly, the petitioner herein received notice in the said applications. The petitioner entered appearance, but, thereafter, for reasons best known failed to contest the proceedings. This led to passing of an exparte order on 09.03.2017 by the Controlling Authority. The petitioner herein thereafter filed an application for setting aside the said exparte order, but the application was filed only on 03.09.2017.

3.As per the proviso Rule 11(5) of the Tamil Nadu Payment of Gratuity Rules, 1972, an exparte order can be reviewed on a good cause, being shown within thirty days of the said order. In this case, the application for setting aside the exparte order was filed more than 5 months later. Therefore on the very face of it, the applications filed by the writ petitioner for setting aside the exparte order dated 09.03.2017, passed by the Controlling Authority is not maintainable. Since the order passed by the Controlling Authority was very much holding good, the first respondent was justified in taking recovery measures. The recovery measures taken by the first respondent are intended to comply with the statutory mandate caused on the first respondent. Therefore, there is no merit in this writ petition.

4.This writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

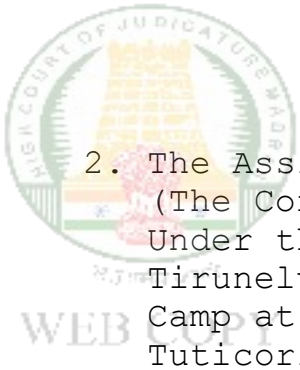
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
Tuticorin District,
Tuticorin.



2. The Assistant Commissioner of Labour,
(The Controlling Authority,
Under the Payment of Gratuity Act,)
Tirunelveli,
Camp at Tuticorin,
Tuticorin.

+ 1 cc TO M/S.Mohamed Ibrahim Ali , Advocate in SR No. 46831

pnn/tsg
AE/KK/SAR3/28.02.2018/3P/4C

ORDER MADE IN
W.P. (MD) No.17689 of 2017
06.02.2018