



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN**W.P. (MD) No.19290 of 2018**

WEB COPY

S.Piramanayagam

.. Petitioner

Vs.

1. The District Collector,
Tirunelveli District.2. The Tahsildar,
Palayamkottai Taluk,
Palayamkottai,
Collectorate,
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the respondents to recover the interest of Rs.1,21, 802.50/- for the belated payment of gratuity payable to the petitioner from the Tamil Nadu State Transport Corporation (Tirunelveli) Limited and to pay the said amount to him within a time frame that may be fixed by this Honourable Court.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.M.Pandia Rajan
Additional Govt. Pleader

ORDER

The petitioner has come forward with this Writ Petition for issuance of a Writ of Mandamus to direct the respondents to recover the interest of Rs.1,21, 802.50/- for the belated payment of gratuity payable to the petitioner from the Tamil Nadu State Transport Corporation (Tirunelveli) Limited and to pay the said amount to him within a time frame that may be fixed by this Court.

2.The petitioner, who is having the benefit of the order of the Controlling Authority in Case No.PG.4/2015, dated 26.04.2017, has approached the Assistant Commissioner of Labour, for issuance of revenue recovery certificate. The order of the Controlling Authority has become final, as no appeal has been preferred by the Management. Pursuant to the request made by the petitioner, revenue recovery certificate has been given on 23.11.2017, but as on date, no steps have been taken by the District Collector, to recover the amount.

3. This Court makes it very clear that if no appeal has been filed within the stipulated time, as contemplated under the Payment of Gratuity Act, 1972 (hereinafter referred as Act) and the same is not pending, it is needless to mention that the District Collector will have to recover the amount from the Corporation. If no appeal



was filed, the Management cannot file an appeal now. As the appellate authority has become *functus officio*, preferring an appeal, cannot be permitted at this stage. In this regard, this Court, in the case of **Onward Trading Company, Madras Vs. Deputy Commissioner of Labour, Madras, reported in 1990 LLR 28 = 1989 (2) LLN 672, 673 (Madras High Court)**, has held that "without any deposit, no appeal can be filed."

4. Taking note of the factual and legal aspects, the District Collector, Tirunelveli District/first respondent is expected to recover the amount from the Corporation, including the attachment of a transport bus for paying the interest amount due to the petitioner. Such exercise will have to be completed within a period of 2 months from the date of receipt of a copy of this order, failing which, Government shall initiate appropriate action against the District Collector for his inaction and post him in a non-sensitive post.

5. This Court in Transport Corporation cases has granted interest at 6%. Those are all cases, where employees have approached directly this Court. As per Act, 1972, if the amount is not paid, in terms of sub-section (3A) of Section 7 the Act, interest payable is at 10% and the revenue certificate has been rightly issued and amount to be collected is with 15% interest as per Section 8 of the Payment of Gratuity Act, 1972.

6. In view of the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The District Collector,
Tirunelveli District.
2. The Tahsildar,
Palayamkottai Taluk,
Palayamkottai,Collectorate,
Tirunelveli District.

+1cc to Mr.A.Rahul, Advocate Sr.No.82995
+1cc to Spl.Government Pleader Sr.No.83367

VS

VB/SV/SAR1/13.12.2018/2P/5C