

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.09.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.10389 of 2009
and
M.P.Nos.1 & 2 of 2009

Mr.V.Jayakumar

..Petitioner

vs

1.The District Collector,
Coimbatore District, Coimbatore.

2.The Management,
M/s.Chaya Knitting Limited,
No.13, Tekic Tea Nagar, SIDCO,
Mudalipalayam, Tirpur - 641 606
Coimbatore District.

3.Tamil Nadu Industrial Investment Corporation Ltd.,
Coimbatore Region,
No.94, Dr.Nanjappa Road,
Coimbatore - 18.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 3rd Respondent letter dated 25.11.2008, quash the same and to the 3rd respondent to pay a sum of Rs.4,76,000/- to the Petitioner as salary due.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : Mr.N.Sakthivel
Additional Government Pleader
for R1
R2- Dismissed vide Court order
dated 20.09.2016

O R D E R

The reply letter sent by the 3rd respondent on 25.11.2008 is sought to be quashed in the present writ petition and a direction is sought for to pay a sum of Rs.4,76,000/- (Rupees Four Lakh Seventy Six Thousand only) to the writ petitioner.

2. The writ petitioner was an employee of the 2nd respondent / M/s.Chaya Knitting Limited and the petitioner was employed as Stores Assistant. The 2nd respondent removed the writ petitioner from the services without any valid reason. The petitioner filed an application before the Labour Court and an Industrial dispute was raised in I.D.No.500 of 2004 and an Exparte award was passed against the 2nd respondent by the Labour Court. The claim petition was also filed by the writ petitioner. However, the writ petitioner has pursued the remedy for obtaining the recovery certificate from the District Collector. In spite his efforts, the said certificate has not yet been issued by the District Collector concerned.

3. Under those circumstances, the petitioner has chosen to file the present writ petition, challenging the reply letter given by the 3rd respondent on 25.11.2008. The letter impugned states that the Tamil Nadu Industrial Investment Corporation, Tirupur Branch had sanctioned financial assistance to M/s.Chaya Knitting Private Limited and due to default committed by the said company, the 3rd respondent had taken possession of the mortgaged assets viz., building and parts of certain machinery on 29.11.2007 under Section 29 of the SFC's Act ['State Financial Corporation Act']. A sum of more than Rs.65.00 lakhs is due from the above said company and the recovery proceedings are in process.

4. It is further stated that the writ petitioner, who was an employee of the 2nd respondent company has to workout against the company for the recovery of the alleged amount due to him as per law and as per the direction of the Courts.

5. This Court is of the considered opinion that there is no infirmity as such in respect of the reply furnished by the 3rd respondent to the writ petitioner. The 3rd respondent is unconnected with the employment of the writ petitioner for the 2nd respondent company. The writ petitioner also rightly raised a dispute and an award was passed in his favour. Thus, he has to pursue the remedy before the competent authority for the purpose of executing the award and to release the amount under the Revenue Recovery Act. However, the writ petitioner cannot sue the 3rd respondent for the purpose of recovery of his service benefits.

6. Under these circumstances, the writ petitioner is at liberty to approach the competent authorities for the purpose of recovery of the dues in accordance with law. However, the present writ petition filed seeking direction against the 3rd respondent cannot be granted.

7. This being the factum, in the event of approaching the competent authority by the writ petitioner, the competent authorities are bound to consider the case of the writ petitioner for grant of appropriate remedy.

8. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The District Collector,
Coimbatore District, Coimbatore.

2.Tamil Nadu Industrial Investment Corporation Ltd.,
Coimbatore Region,
No.94, Dr.Nanjappa Road,
Coimbatore - 18.

+1cc to Mr.A.Ramesh Kumar, Advocate, SR.No. 77246

+1cc to Mr.B.Nedunchezian Advocate, SR.No.77337

+1cc to the Govt.Pleader, Vide Sr.No. 77739

W.P.No.10389 of 2009

Kak (28/09/2019)

सत्यमेव जयते

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