

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2019

CORAM

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

W.P.No.1773 of 2012

E.Sampath

..Petitioner

Vs.

The Commissioner,  
Corporation of Chennai,  
Chennai - 3

..Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent forthwith to pay the difference of backwages, Retirement benefits including Gratuity, PF, and all other attendant benefits, and pensionery dues along with the 18% interest per annum till the date of payment and to pass such further or other order as this Honourable Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : M/s.G.Vaishali

For M/s.T.Fennwalter Associates

For Respondent : M/s.Karthikaa Ashok

O R D E R

The relief sought for in the writ petition is for a direction to direct the respondent forthwith to pay the difference of backwages, Retirement benefits including Gratuity, PF, and all other attendant benefits, and pensionery dues along with the 18% interest per annum till the date of payment.

2. The learned counsel for the writ petitioner states that the writ petitioner was an employee of the respondent Corporation and he was terminated from service during the year 1993. He raised an Industrial Dispute in I.D.No.243 of 1994 and an Award was passed, granting the benefit of reinstatement with continuity of service with full back wages. Against the Award passed in I.D.No.243 of 1994, the respondent Corporation filed a writ petition, which was dismissed on the ground of laches and against which, the Corporation filed Writ Appeal before the Hon'ble Division Bench of this Court in W.A.No.1662/2016 and the Hon'ble Division Bench granted Stay and the writ appeal is pending.

3. This apart, the writ petitioner filed a Claim Petition in C.P.No.382/2003, which was also ordered by the Labour Court

on 31.10.2007. Based on the Claim Petition order, the petitioner sent a representation on 09.11.2011 and accordingly, the present writ petition is filed.

4. The learned counsel appearing on behalf of the respondent made a submission that the writ petitioner filed an Execution Petition in E.P.No.106/2015 and the said Execution Petition is also pending before the Labour Court.

5. Beyond all these submissions, this Court is of an opinion that the relief as such sought for, to direct the respondent to settle the terminal benefits, cannot be granted in this writ petition as the Award passed by the Labour Court was under challenge by the respondent Corporation and the writ appeal is pending before the Hon'ble Division Bench of this Court. This apart, the Execution Petition is also pending before the Labour Court.

6. Thus, the writ petitioner has to pursue the remedy in the pending litigations and the present writ petition is filed for a direction, cannot be entertained at all. Even in a case, where an Award is passed by the Labour Court, a writ petition seeking direction to settle the terminal benefits, cannot be entertained and the Award holder has to approach the Labour Court by filing an Execution Petition under Section 11-B of the Industrial Disputes Act.

7. This being the principles to be followed, the relief as such sought for in the present writ petition cannot be granted. The writ petitioner is at liberty to get his grievances redressed in the manner known to law.

8. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Kak

To  
The Commissioner,  
Corporation of Chennai,  
Chennai - 3.

+1cc to Mr.Karthikaa Ashok, Advocate, S.R.No. 94176

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