IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 27.02.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 5273 OF 2019
AND
W.M.P. NOS. 5982 & 5985 OF 2019

The Joint Commissioner/
Executive Officer
Arulmigu Arunachaleswarar Thirukoil
Thiruvannamalai 606 601. . ... Petitioner

- Vs -

1. Dy. Commissioner of Labour
(Controlling Authority under
The Payment of Gratuity Act, 1972)
Vellore.

2. S.Kupendran ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records of the 1st respondent which culminated in the impugned order dated 27.9.2018 in P.G. No.74/2018 and quash the same.

For Petitioner : Mr. Sriram for M/S.A.S.Kailasam & Associates

For Respondents: Mr. J.Ramesh, AGP for R-1

ORDER

Mr. J.Ramesh, learned Addl. Government Pleader takes notice for the 1st respondent.

2. Learned counsel appearing for the petitioner submits that whether the Payment of Gratuity Act is applicable to the petitioner is pending before the Hon'ble Supreme Court. Whileso, the authority/1st respondent has entertained the claim petition filed under the Payment of Gratuity Act by the employees of the temple and allowed the gratuity applications. Learned counsel also complains that some of the claims have been filed after several years and the authority has entertained such

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applications and allowed such claims without giving proper opportunity to the Temple to contest the inordinate delay in filing the applications by the concerned employees. Therefore, it is submitted that there is large scale violation of principles of natural justice and, hence, the petitioner has invoked the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

3. Even assuming that there is violation of principles of natural justice, such violation could always be pointed out before the appellate authority constituted under the Payment of Gratuity Act and violation of principles of natural justice itself cannot give right to the petitioner to invoke the extra-ordinary jurisdiction of this Court under Article 226 of the Constitution of India.

4. If the original authority has passed the order improperly or without considering the objections raised by the petitioner/Temple, it is always open to the Temple to raise such of the contentions as they deem fit and proper before the appellate authority and the appellate authority is vested with all the powers to deal with such contentions and could dispose of the appeal. When an appellate remedy is provided under the Payment of Gratuity Act and the remedy being effective, such remedy has to be exhausted by the petitioner before the petitioner seeks to approach this Court by invoking its extra-ordinary jurisdiction. The appellate authority can always consider all the objections that may be raised on behalf of the Temple while dealing with the appeal.

5. In the above circumstances, this Court is of the considered view that the present petition filed, without exhausting the remedy under the Payment of Gratuity Act is not maintainable and, accordingly, the writ petition is dismissed. It is always open to the petitioner/Temple to move the appellate authority, if so advised.

6. With the above observations and directions, this writ petition is dismissed. Consequently, connected miscellaneous petitions are also dismissed. Registry is directed to return the original order to the petitioner.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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GLN

To

Dy. Commissioner of Labour
(Controlling Authority under
The Payment of Gratuity Act, 1972)
Vellore.

+1cc to M/S.A.S.Kailasam & Associates Sr.18567

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srg 05/04/2019

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