



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2019

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.19779 of 2016 and

W.P.No., 19780 of 2016

A.Natarajan

... Petitioner in both writ petitions

Vs.

The Managing Director,

Sipcot Office,

19 A, Rukmani Lakshmipathy Salai,

Egmore, Chennai 600 008. ... Respondent in both writ
petitions

Prayer in W.P.No.19779 of 2016 This Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to allot a plot to the petitioner as given to other employees.

Prayer in W.P.No.19779 of 2016 This Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to pay legal dues such as interest for the belated payment of Gratuity, E.P.F. contribution for the non employment period from 18.07.1982 to 12.11.2006 and 80 days leave pay to the petitioner.

For Petitioner : Mr.S.Varadarajulu
(in both writ petitions)

For Respondents : Mr.Sudarshanasundar
(in both writ petitions)

O R D E R

These writ petitions have been filed for directing the respondent to allot a plot to the petitioner and to pay interest for the belated payment of Gratuity and to grant other service benefits.



2. The case of the writ petitioner is as follows.

The petitioner joined in the service of the respondent management on 23.08.1980 as Gardener and he was terminated on 24.02.1983. Against which, the petitioner had filed I.A.No.562 of 1993 before the Labour Court, Vellore and vide order dated 09.06.2000, the Labour Court, Vellore ordered to reinstate the petitioner into the service, without back wages. The petitioner also filed an application under Section 3 of the Tamil Nadu Industrial Establishment (Conferment of permanent Status to Workman) Act, 1981 before the Inspector of Labour, Vellore to regularize his service, as he was worked for more than 480 days, within 24 calendar months and the same was allowed on 18.03.2002.

2.1 Against the above said order dated 09.06.2000 and 18.03.2002 by the Labour Court, Vellore, the respondent management filed W.P.No.13974 of 2001 and W.P.No.32264 of 2002 and the same were dismissed by this court on 19.04.2004. On the other hand, the writ petition in W.P.No.24390 of 2001 filed by the petitioner challenging the denial of back wages was allowed. Thereafter, the respondent gave reinstatement order and the petitioner joined duty on 13.11.2006. However, the respondent gave employment as fresh entrant. Hence, the petitioner filed contempt petition No.1738 of 2010 against the respondent. Thereafter, the respondent revised the pay of the petitioner and fixed seniority as per the court order.

2.2. The respondent allotted housing plots to their employees for sale consideration of Rs.49,500/- and the petitioner also entitled to get the same. Though the petitioner gave representations dated 20.07.2007, 10.06.2008, 10.02.2010, 10.11.2010, 12.05.2011, 10.01.2013, 13.06.2014 and 19.09.2014 through proper channel, the respondent did not allot any plot.

2.3. The petitioner attained superannuation on 31.10.2014. After retirement, the respondent paid only a sum of Rs.1,08,531/- towards gratuity on 13.11.2014 and did not pay the balance of Rs.3,25,592/-. Hence he sent a notice dated 30.12.2014. Thereafter, on 23.09.2015, the respondent paid the balance Gratuity amount belatedly. Hence, the petitioner filed these writ petitions for direction to the respondent to allot a plot to him and to pay interest for the belated payment of Gratuity and to grant other service benefits.

3. The learned counsel appearing for the writ petitioner had raised the following claims.



WEB COPY

i. Whether the petitioner is entitled to get interest at the rate of 10% per annum for the belated payment of gratuity?

ii. Whether the petitioner is entitled for computation of Earned Leave period from 18.07.1982 to 12.11.2006?

iii. Whether the petitioner is entitled to EPF contribution amount as prayed for?

iv. Whether the petitioner is entitled for allotment of housing plot?

6. Point No.1

Admittedly, the petitioner was retired from service on 31.10.2014. Though Gratuity amount of Rs.1,08,53/- for the period from 13.11.2006 to 31.10.2014 was paid on 13.11.2014, within the prescribed time, the gratuity amount of Rs.3,25,592/- towards the non-employment period i.e. from 18.07.1982 to 12.11.2006 was paid only on 23.09.2015, that too after the request made by the petitioner on 31.10.2014. As per Rule, the respondent has to settle the gratuity amount within three months from the date of the request and if not paid, the delay period shall be calculated from the date of request. Therefore, there is a delay of 11 months in settling the above said amount. However, there is no satisfactory explanation given by the respondent for the above said delayed payment. Hence, the petitioner is entitled to get interest at the rate of 9% per annum on Rs.3,25,592/- from 31.10.2014 to 23.09.2015 and the point No.1 is answered accordingly.

7. Point No.2 and 3

In so far as the point No.2 and 3 are concerned i.e., with regard to the computation of Earned Leave for the period from 18.07.1982 to 12.11.2006 and payment of EPF contribution amount to the above said period is concerned, admittedly, the petitioner has not made any representation so far, to the respondent. Hence, the above said claims are not maintainable. However, the petitioner is at liberty to give a representation for the above said claims to the respondent for getting appropriate order, if so advised.

8. Point No.4

The respondent has stated in the counter affidavit as follows.

" 12. .. In SIPCOT Industrial Complex, Ranipet, a layout by name Mazdoor Housing Colony in the backside of C & D Block of SIPCOT Housing Flats Colony was formed in an extent of 42 cents to allot



WEB COPY

housing sites to its employees in the cadre of Mazdoors or equivalent cadre. There were 12 housing plots measuring 3 cents each in the above said layout. After receiving representation from the eligible employees, housing plot to 11 employees (Mazdoor and equivalent cadres) were allotted in July 2000. since the above layout is in low lying area, revised layout was formed in the proposed Park area opposite to J and L Block of SIPCOT Housing flats Colony converting the earlier layout as park area. The Director of Town and Country Planning, Chennai had approved the revised layout, vide Lr.No.14180/2003, dated 17.12.2004 and approval No.k.t e.C.,.vz;. 276/2004. As requested by the allottees, the plots in the revised Layout were allotted to 9 allottees, in lieu of the earlier allotted plots."

9. In the revised layout (approved by the Director of Town and Country Planning, Chennai, vide Lr.No.14180/2003, dated 17.12.2004 and approval No.k.t e.C.,.vz;. 276/2004), out of 11 plots, the respondent had allotted 9 plots to the allottees. Admittedly, still there are three plots available in the above said revised layout. Therefore, the petitioner is directed to give fresh representation for allotment of the housing plot to the respondent and on such representation being made by the petitioner, the respondent is directed to consider the same as early as possible.

10. W.P.No.19779 of 2016

In the result, the petitioner is directed to give a fresh representation for allotment of plot to the respondent and on such representation being made by the petitioner, the respondent is directed to consider the same, within a period of two weeks from the date of receipt of the request.

11. W.P.No.19780 of 2016

In the result,

i) The respondent is directed to pay interest at the rate of 9% per annum on Rs.3,25,592/- from 31.10.2014 to 23.09.2015 for the belated payment of Gratuity amount to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

ii) The petitioner is at liberty to give representation to the respondent, if so advised, for getting appropriate order with regard to the computation of Earned Leave period from 18.07.1982 to 12.11.2006 and payment of EPF contribution amount



for the above said period and on such representation being made by the petitioner, the respondent is directed to consider the same in accordance with law, within two weeks from the date of receipt of the request.

WEB COPY

12. In the light of the above directions, the writ petitions in W.P.No.19779 of 2016 and W.P.No.19780 of 2016 are disposed of. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

mst

To

The Managing Director,
Sipcot Office,
19 A, Rukmani Lakshmipathy Salai,
Egmore, Chennai 600 008.

+1 cc to M/s.SudharshaSundar Advocate sr 104365
+1 cc to M/s.S.T.Varadarajulu Advocate sr 104631

W.P.No.19779 of 2016 and
W.P.No. 19780 of 2016

aa23/01/2020