

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-03-2019

CORAM

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

W.P.No.28190 of 2018

G.Sekar

.. Petitioner

- Vs. -

The Chief Works Manager,
Southern Railway,
Carriage Works,
Ayanavaram,
Chennai-600 023.

.. Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent herein to consider the petitioner's representation dated 27.9.2018 and return the settlement amount of Rs.74,944/- pending with the respondent.

For Petitioner : Mr.S.Vijay

For Respondent : Mr.P.T.Ramkumar,
Standing Counsel.

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondent to consider the representation submitted by the writ petitioner on 27.9.2018 and return the settlement amount of Rs.74,944/- pending with the respondent.

2. The learned Standing Counsel appearing on behalf of the respondent states that the salary of the writ petitioner was attached based on the order passed in EP No.2857 of 2014 dated 24.7.2018.

3. In compliance of the order passed in the Execution Petition, the salary of the writ petitioner was attached and paid to the authority concerned. Thus, any refund is to be claimed from the appropriate Forum.

4. It is contended by the learned Standing Counsel for the respondent that the money recovered is not kept with the respondent.

5. The learned counsel for the writ petitioner states that the amount is kept in the custody of the respondent.

6. Such disputed facts cannot be adjudicated in a writ proceeding. The writ petitioner also has not elaborated all such facts and circumstances in the affidavit filed in support of the present writ petition.

7. Contrarily, the writ petition is filed for a direction to consider the representation submitted by the writ petitioner on 27.9.2018. Such a direction to consider the representation submitted by the writ petitioner cannot be granted in the absence of establishing a legal right.

8. The Hon'ble Supreme Court of India in the case of the case of Government of India and Another vs. P.Venkatesh [decided on 1.3.2019 in Civil Appeal No.2425 of 2019] held as follows:-

"This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute."

9. In view of the fact that the writ petitioner has not stated the facts and the circumstances with clarity and suppressed all the materials facts, which all are relevant to consider the issues. Thus, the relief, as such, sought for in the present writ petition cannot be granted. However, the writ petitioner is at liberty to work out his remedy by filing appropriate petition before the Competent Forum or the Competent Authority.

10. With the above observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

Svn

To

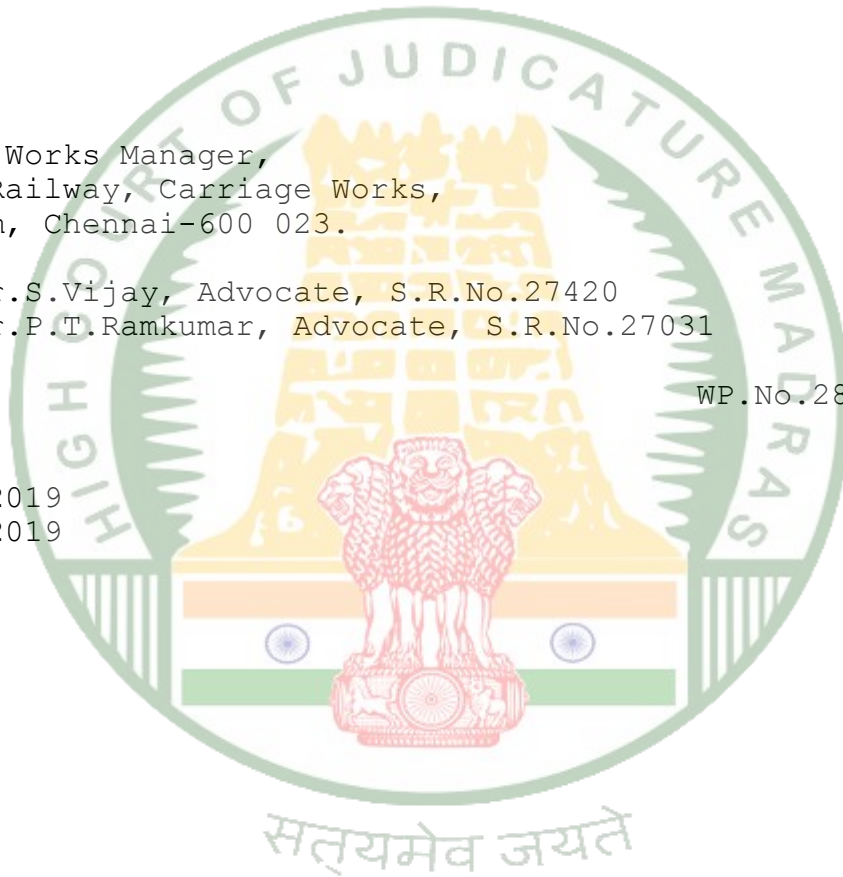
The Chief Works Manager,
Southern Railway, Carriage Works,
Ayanavaram, Chennai-600 023.

+1cc to Mr.S.Vijay, Advocate, S.R.No.27420

+1cc to Mr.P.T.Ramkumar, Advocate, S.R.No.27031

WP.No.28190 of 2018

CA(CO)
CS/25/04/2019
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