



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.18901 of 2017

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P.Adaikan

... Petitioner

Vs

1.The Assistant Commissioner Labour,
Office of the Assistant Commissioner Labour
84, Nehruji Nagar 1st Street,
Dindigul-624 001.
Dindigul District.

2.The District Collector,
Dindigul District, Dindigul.

3.The Executive Officer,
Landhakottai Panchayat,
Landhakottai, Vendasandur Taluk,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent herein to consider and pass orders on the petitioner's final representation dated 06.09.2017 seeking to initiate Revenue Recovery proceedings against the third respondent Panchayat to recover the sum of Rs.45,785/- with 10% interest from 31.05.2015 as per the order passed by the first respondent herein dated 29.07.2015 in PG.No.159 of 2015.

For Petitioner : Mr.N.Vijayakumar

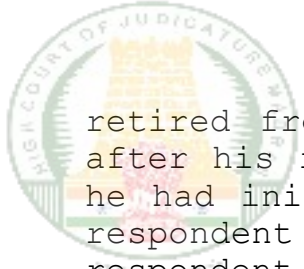
For R-1 and R-2 : Mr.M.Jeyakumar

Additional Government Pleader

ORDER

The instant Writ Petition has been filed for a Writ of Mandamus to direct the second respondent to consider and pass orders on the petitioner's final representation, dated 06.09.2017, seeking to initiate Revenue Recovery proceedings against the third respondent Panchayat to recover the sum of Rs.45,785/- with 10% interest from 31.05.2015, as per the order passed by the first respondent dated 29.07.2015 in PG.No.159 of 2015.

2.It is the case of the petitioner that he was employed as Over Head Tank Operator by the third respondent on 01.01.1984 and he



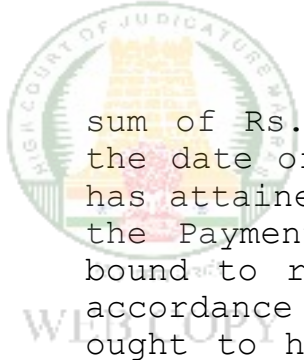
retired from service on 31.05.2015. According to the petitioner, after his retirement the gratuity amount was not paid and therefore he had initiated proceedings for payment of gratuity and the first respondent by order dated 29.07.2015, directed to the third respondent Panchayat to disburse a sum of Rs.45,785/- together with interest from the date of retirement within a period of 30 days. According to the petitioner, till date the gratuity amount has not been paid to the petitioner despite the order dated 29.07.2015 passed by the first respondent. According to the petitioner, he has been repeatedly requesting the third respondent to pay the gratuity amount, but till date the gratuity amount has not been paid to him. It is also the case of the petitioner that despite the recommendation made by the first respondent to the District Collector/second respondent to recover the amount payable to the petitioner as gratuity, from the third respondent, till date the gratuity amount has not been recovered by the second respondent.

3. In such circumstances, he has given a representation dated 06.09.2017 to the second respondent requesting them to initiate Revenue Recovery proceedings against the third respondent for non payment of the gratuity amount of Rs.45,785/- together with interest from 31.05.2015 as per the order passed by the first respondent, dated 29.07.2015 in PG.No.159 of 2015. It is the case of the petitioner despite the said representation, till date Revenue Recovery Proceedings has not been initiated against the third respondent by the second respondent for the recovery of the gratuity amount payable to the petitioner. In such circumstances, the Writ Petition has been filed.

4. Heard Mr.N.Vijayakumar, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents 1 and 2. Despite service of notice on the third respondent there is no representation on their side.

5. The relief sought for in the instant writ petition, however, if granted in the absence of the third respondent will not prejudice the interest of any of the parties to this writ petition. The only relief sought for in this writ petition by the petitioner is to consider and dispose of the representation given by the petitioner, dated 06.09.2017 to the second respondent to initiate revenue recovery proceedings against the third respondent panchayat and to recover the sum of Rs.45,785/- together with interest from 31.05.2015 as per the order passed by the first respondent, dated 29.07.2015 in PG.No.159 of 2015. Eventhough the said representation was given as early as on 06.09.2017, as seen from the records placed by the petitioner and after hearing the submissions of the learned counsel for the petitioner, the said representation has not been considered by the second respondent till date.

6. As seen from the averments contained in the affidavit filed in support of the writ petition, the order dated 29.07.2015 passed by the first respondent directing the third respondent to disburse a



sum of Rs.45,785/- as gratuity together with interest at 10% from the date of retirement of the petitioner within a period of 30 days has attained its finality. That being the case, as per Section 8 of the Payment of gratuity Act, 1972, the second respondent is duty bound to recover the gratuity amount from the third respondent in accordance with law. That being the case, the second respondent ought to have considered the representation dated 06.09.2017 given by the petitioner. But till date, the same has not been considered by the second respondent.

7. In the result, there is merit in the instant writ petition and accordingly, this Court directs the second respondent to consider the representation, dated 06.09.2017, submitted by the petitioner requesting the second respondent to initiate Revenue Recovery Proceedings against the third respondent panchayat and to recover the sum of Rs.45,785/- together with 10% interest from 31.05.2015 as per the order passed by the first respondent dated 29.07.2015 in PG.No.159 of 2015 and pass final orders within a period of eight weeks from the date of receipt of a copy of this order.

8. With the aforesaid directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (cs-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Assistant Commissioner Labour,
Office of the Assistant Commissioner Labour
84, Nehruji Nagar 1st Street,
Dindigul-624 001.
Dindigul District.

2. The District Collector,
Dindigul District, Dindigul.

+1cc to Mr.E.V.N Siva, Advocate, SR.No.53531
+1cc to Special Government Pleader, SR.No.52604

W.P. (MD) No.18901 of 2017

SP/24.04.2019/3P/5C