

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.11.2020
CORAM
THE HONOURABLE MR.JUSTICE P.VELMURUGAN
W.P.No.40366 of 2005

The Commissioner,
Udumalpet Municipal Corporation,
Udumalpet, Coimbatore District.

..Petitioner

Vs

1.Palaniammal

2.The Assistant Commissioner of Labour,
O/o.The Deputy Commissioner of Labour,
Coimbatore - 18.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking issuance of a writ of certiorari, calling for the records relating to the award passed by the 2nd respondent herein in G.A.No.264 of 2003 dated 14.1.2004 and quash the same.

For Petitioner : Ms.P.Jebamary
for Mr.A.S.Thambuswamy

For Respondents : Mr.M.S.G.Vinoth
for Mr.N.Umapathi for R1
Mr.K.Magesh
Special Government Pleader
for R2

O R D E R

This writ petition has been filed to quash the award dated 14.01.2004 in G.A.No.264 of 2003 passed by the second respondent.

2. The first respondent filed G.A.No.264 of 2003 before the second respondent for payment of gratuity, on account of the death of her husband Marudhan. The second respondent passed the award on 14.01.2004 and directed the petitioner Corporation to pay the amount with 10% interest. Challenging the said order, the petitioner Corporation filed the present writ petition.

3. The learned counsel for the petitioner would submit that the gratuity amount was already paid to the first respondent and by suppressing the said fact the first respondent got the order and hence, the same is liable to be dismissed.

4. The learned counsel for the first respondent would submit that aggrieved over the order of the second respondent, the petitioner ought to have filed an appeal within sixty days before the Appellate Authority. He would further submit that the period of limitation for filing an appeal to the Government has been stipulated as sixty days, which can be extended by another sixty days by the Government and for filing of an appeal, a certificate must be obtained by the management to the effect that the gratuity amount has been deposited. Whereas in this case the petitioner has not filed any appeal and straight away filed the present writ petition by invoking Article 226 of the Constitution of India, however, it is not maintainable. In support of his contention the learned counsel for the first respondent by placing reliance on the decisions of this Court in the case of Binny Limited Vs. The Assistant Commissioner of Labour, Chennai and another (in W.P.No.16247 of 2007) and yet another case of The Management, Tamil Nadu State Transport Corporation (Madurai Division-I) Vs. The Assistant Commissioner of Labour and another (W.P.(MD)No.9562 of 2016) and submitted that the petitioner has not filed any appeal and straight away approached this Court by invoking Article 226 of Constitution of India, hence, the petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. Admittedly, the first respondent filed the application before the second respondent for payment of gratuity with interest for the delayed payment. Though the learned counsel for the petitioner would submit that the gratuity amount was already paid, they have not submitted any document to show that within the prescribed period all the dues have been paid to the first respondent and therefore, the second respondent passed the order and also directed the petitioner to pay the amount with 10 % interest. If at all, aggrieved over the said order, the petitioner should have filed the appeal before the Appellate Authority within sixty days. However, the petitioner has not filed any appeal instead of filing the writ petition by invoking Article 226 of Constitution of India, even though, they have not produced any document to show that all the gratuity amount was settled.

7. Therefore, under these circumstances, this Court does not find any merit in the writ petition. The writ petitioner without filing any appeal, filed this writ petition by invoking Article 226 of Constitution of India is not maintainable. Further, the petitioner has not produced any documentary evidence to show that gratuity amount was duly paid in time.

8. Therefore, there is no merit in the writ petition and the same is liable to be dismissed. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

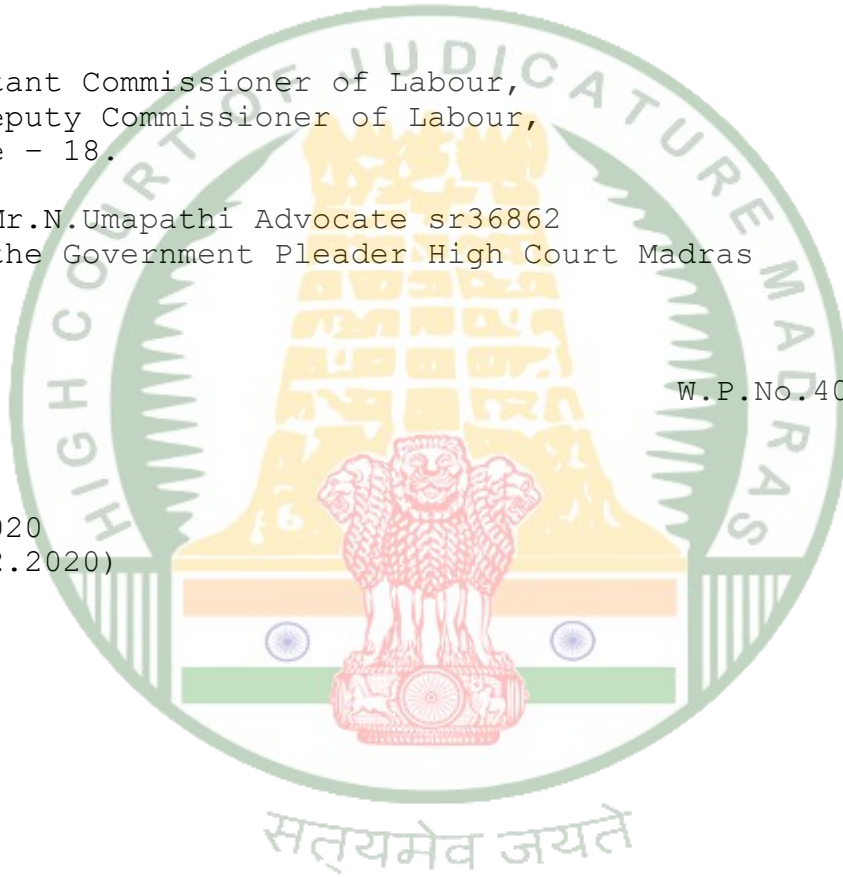
ms
To

The Assistant Commissioner of Labour,
O/o. The Deputy Commissioner of Labour,
Coimbatore - 18.

+1 cc to Mr. N. Umapathi Advocate sr36862
+1 cc to the Government Pleader High Court Madras
sr 37163

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