

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 24-11-2020

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.16663 of 2020

S.Ramasamy

..... Petitioner

-vs-

1. The District Collector
Salem District,
Salem - 636 001.
2. The Tahsildar,
Salem Taluk,
Salem - 636 007.
3. The Managing Director
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
No.12, Ramakrishna Road,
Salem - 636 007.

..... Respondents

Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent - The District Collector, Salem and the second respondent - The Tahsildar, Salem, to recover the amount from the third respondent as per the certificate of the Deputy Commissioner of Labour, Salem, towards the Gratuity and interest amount by revenue recovery and the third respondent to pay any compensation towards the sufferings caused to the petitioner.

For Petitioner : Mr.R.Dilli Kumar

For Respondents : Mr.R.J.Radhika

Govt. Advocate for R1 and R2

Mr.K.Murthy

Standing counsel for R3

ORDER

Ms.R.J.Radhika, learned Government Advocate accepts notice for R1 and R2. Mr.K.Murthy, learned Standing counsel takes notice for R3.

2. The prayer sought for herein is for a writ of mandamus, directing the first and the second respondent, to recover the

amount as per the certificate issued on 24.06.2019 by the Deputy Commissioner of Labour, Salem as on date and to remit the same as per the certificate apart from any other damages for the sufferings caused to the petitioner by negligent act of the third respondent.

3. The petitioner was the employee of the third respondent Transport Corporation as Driving Instructor and after rendering long service, he attained the superannuation on 30.08.2013, accordingly retired from service. After his retirement, the Gratuity payable to the petitioner under the Payment of Gratuity Act, 1972 has to be paid within a period of 30 days from the date of retirement, however the said gratuity to the extent of Rs.6,70,101/- with interest since has not been paid, the petitioner had approached the Controlling Authority under the Payment of Gratuity Act. The said authority, by order, dated 03.02.2017 in P.G.Case No.58/2016, directed the third respondent to pay a sum of Rs.6,70,101/- with interest within 30 days.

4. Pursuant to the said order passed by the authority under the Gratuity Act, the third respondent Transport Corporation, on 23.05.2017 disbursed only a sum of Rs.5,19,729/-, thereby there was a due to the extent of Rs.1,50,372/- still. Therefore the said amount along with interest should be disbursed to the petitioner, which the third respondent has not come forward to disburse. Immediately the petitioner again approached the concerned authority under the said Act, who on considering the plea of the petitioner has passed an order on 24.06.2019 directing the third respondent to pay a sum of Rs.4,24,841/- being the remaining due of the Gratuity as well as the interest for the belated payment.

5. Despite the said directive issued by the authority concerned, the third respondent since has not come forward to make the payment to the petitioner, the authority under the Gratuity Act, i.e., the Deputy Labour Commissioner, Salem, vide his letter, dated 25.07.2019 has directed the first respondent, District Collector, to recover the said sum from the third respondent to the extent of Rs.4,24,841/- towards the Gratuity due payable to the petitioner by invoking the provisions of the Revenue Recovery Act and deposit the same in the office of the authority under the Gratuity Act.

6. In spite of the said order having been issued by the authority to the first respondent / District Collector, it seems that the District Collector has not so far acted upon. Only in that circumstances, the petitioner has come up with the present writ petition with the aforesaid prayer.

7. I have heard Mr.R.Dilli Kumar, learned counsel appearing

for the petitioner who would reiterate the aforesaid fact and prayed for the issuance of a direction by way of mandamus to the District Collector as well as the Tahsildar concerned who are the respondents 1 and 2 herein to comply with the order passed by the authority under the Gratuity Act by invoking Revenue Recovery Proceedings, to recover the Gratuity due payable by the third respondent to the petitioner within a time frame.

8. I have heard Ms.R.J.Radhika, learned Government Advocate appearing for the respondents 1 and 2 who would submit that, if the first respondent has not so far acted pursuant to the letter issued by the authority under the Gratuity Act, dated 25.07.2019, certainly the same would be acted upon by the first respondent by issuing suitable direction to the second respondent by invoking the provisions of the Revenue Recovery Act and accordingly, the Gratuity due payable by the third respondent to the petitioner would be deposited before the concerned authority within a reasonable time, that may be stipulated by this Court.

9. I have considered the said submissions made by the learned counsel for the parties and have perused the materials placed before this Court.

10. In view of the said submissions made by both sides and having regard to the facts and circumstances of this case, this Court is inclined to pass the following order in this writ petition :

"that the first respondent, District Collector shall take necessary action to invoke the Revenue Recovery Proceedings as directed by the authority under the Gratuity Act, vide his letter, dated 25.07.2019, by invoking the service of the second respondent, Tahsildar, to recover a sum of Rs.4,24,841/- being the Gratuity due payable by the third respondent to the petitioner and accordingly, recover the said amount and deposit the same before the Deputy Commissioner of Labour, Salem, being the authority under the Gratuity Act, within a period of two months from the date of receipt of a copy of this order."

11. With these direction, the writ petition is disposed of. No order as to costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

tsvn

Sub Assistant Registrar

To

1. The District Collector
Salem District,
Salem - 636 001.

2. The Tahsildar,
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Salem - 636 007.

3. The Managing Director
Tamil Nadu State Transport
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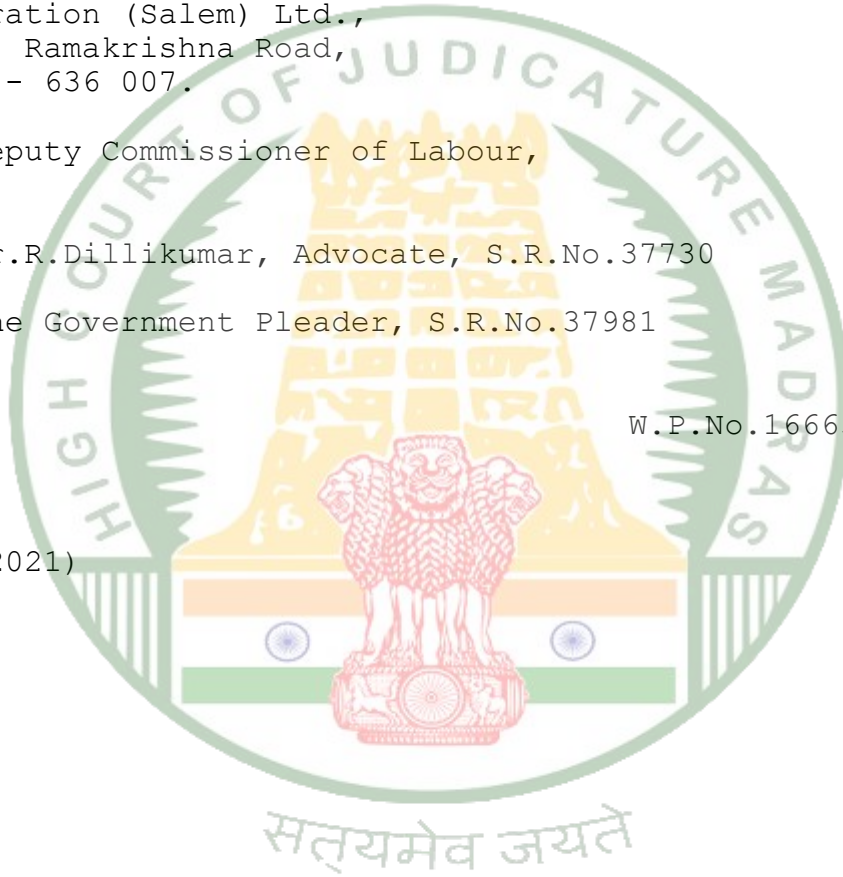
4. The Deputy Commissioner of Labour,
Salem.

+1cc to Mr.R.Dillikumar, Advocate, S.R.No.37730

+1cc to the Government Pleader, S.R.No.37981

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