

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HON'BLE MR.JUSTICE M. DHANDAPANI

W.P.Nos.18218, 18221, 18224, 18228 and 18231 of 2020

N.Palanisamy	..	Petitioner in W.P.No.18218/2020
S.Gnanaprakasam	..	Petitioner in W.P.No.18221/2020
R.Ramila	..	Petitioner in W.P.No.18224/2020
L.Anjalam	..	Petitioner in W.P.No.18228/2020
R.Krishnamurthy	..	Petitioner in W.P.No.18231/2020

-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 in all the W.Ps

Prayer in W.P.No.18218/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the Respondents 1 and 2 to recover the amount as per the certificate issued on 02.06.2020 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 me by negligent act of the 3rd Respondent.

Prayer in W.P.No.18221/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the Respondents 1 and 2 to recover the amount as per the certificate issued on 22.07.2019 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 me by negligent act of the 3rd Respondent.

Prayer in W.P.No.18224/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the Respondents 1 and 2 to recover the amount as per the certificate issued on 09.04.2018 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 me by negligent act of the 3rd Respondent.

Prayer in W.P.No.18228/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the Respondents 1 and 2 to recover the amount as per the certificate issued on 27.09.2018 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 me by negligent act of the 3rd Respondent.

Prayer in W.P.No.18231/2020 : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus directing the Respondents 1 and 2 to recover the amount as per the certificate issued on 03.02.2020 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 me by negligent act of the 3rd Respondent.

For Petitioners :Mr.T.Pichappa
For Respondents :Mr.S.Thangavel,
Special Government Pleader

C O M M O N O R D E R

The facts necessary for the disposal of these writ petitions as stated in each of the writ petition is as follows.

2. The petitioner in W.P.No.18218 had been in employment in the 3rd respondent Corporation and retired from service on 31.12.2013 as Senior Checking Inspector. However, the 3rd respondent denied to pay the gratuity amount due to him as per the provisions of the Payment of Gratuity Act, 1972. Hence, he filed an application in P.G.No.80 of 2016 before the Controlling Authority viz., Assistant Commissioner of Labour, Salem and after due enquiry, the Controlling Authority by order dated 17.02.2017, directed the third respondent to pay a sum of Rs.5,71,690/- along with interest at the rate of 10% per annum from 31.01.2013 till the date of realization to the petitioner within 30 days from the date of receipt of the order. Thereafter, the 3rd respondent remitted an amount of Rs.4,83,501/- on 23.05.2017 and Rs. 1,23,293/- on 16.08.2018 without any intimation to the petitioner or the Authority. Since there was difference in the amount received by the petitioner and the amount arrived at as per the award passed by the Controlling Authority, the petitioner once again approached the Controlling Authority and a notice dated 24.06.2019, to pay the difference in gratuity amount was sent by the Controlling Authority. On 02.06.2020, the Deputy Commissioner of Labour sent a letter along with a Certificate to the 1st respondent the District Collector, Salem under Section 8 of the Payment of Gratuity Act, for effecting recovery from the third respondent

Corporation. As the third respondent has not yet honoured the said letter and has not remitted the payment to the petitioner, the petitioner is before this Court seeking for appropriate direction.

3. The petitioner in W.P.No.18221 had been in employment in the 3rd respondent Corporation and retired from service on 31.01.2016 as Senior Checking Inspector. However, the 3rd respondent denied to pay the gratuity amount due to him as per the provisions of the Payment of Gratuity Act, 1972. Hence, he filed an application in P.G.No.191 of 2016 before the Controlling Authority viz., Assistant Commissioner of Labour, Salem and after due enquiry, the Controlling Authority by order dated 29.07.2017, directed the third respondent to pay a sum of Rs.7,85,908/- along with interest at the rate of 10% per annum from 02.10.2010 till the date of realization to the petitioner within 30 days from the date of receipt of the order. Thereafter, the 3rd respondent remitted an amount of Rs.6,54,094/- into the bank account of the petitioner, without any intimation to the petitioner or the Authority. Since there was difference in the amount received by the petitioner and the amount arrived at as per the award passed by the Controlling Authority, the petitioner once again approached the Controlling Authority and a notice dated 22.07.2019, to pay the difference in gratuity amount was sent by the Controlling Authority. On 31.01.2020, the Deputy Commissioner of Labour sent a letter along with a Certificate to the 1st respondent the District Collector, Salem under Section 8 of the Payment of Gratuity Act, for effecting recovery from the third respondent Corporation. As the third respondent has not yet honoured the said letter and has not remitted the payment to the petitioner, the petitioner is before this Court seeking for appropriate direction.

4. In W.P.No.18224, the petitioner's husband had been in employment in the 3rd respondent Corporation and died while in service on 23.06.2013. However, the 3rd respondent denied to pay the gratuity amount due to him as per the provisions of the Payment of Gratuity Act, 1972. Hence, the petitioner filed an application in P.G.No.80 of 2017 before the Controlling Authority viz., Assistant Commissioner of Labour, Salem and after due enquiry, the Controlling Authority, by order dated 05.10.2017, directed the third respondent to pay a sum of Rs.2,87,488/- along with interest at the rate of 10% per annum from 30.10.2020 till the date of realization to the petitioner within 30 days from the date of receipt of the order. Thereafter, the 3rd respondent remitted an amount of Rs.1,94,585/- into the bank account of the petitioner, without any intimation to the petitioner or the Authority. Since there was difference in the amount received by the petitioner and the amount arrived at as per the award passed by the Controlling

Authority, the petitioner once again approached the Controlling Authority and a notice dated 23.02.2018, to pay the difference in gratuity amount was sent by the Controlling Authority. On 09.04.2018, the Deputy Commissioner of Labour sent a letter along with a Certificate to the 1st respondent the District Collector, Salem under Section 8 of the Payment of Gratuity Act, for effecting recovery from the third respondent Corporation. As the third respondent has not yet honoured the said letter and has not remitted the payment to the petitioner, the petitioner is before this Court seeking for appropriate direction.

5. In W.P.No.18224, the petitioner's husband had been in employment in the 3rd respondent Corporation and he retired on 31.03.2013. Thereafter, he died on 27.11.2014. However, the 3rd respondent denied to pay the gratuity amount due to him as per the provisions of the Payment of Gratuity Act, 1972. Hence, the petitioner filed an application in P.G.No.70 of 2016 before the Controlling Authority viz., Assistant Commissioner of Labour, Salem and after due enquiry, the Controlling Authority by order dated 13.01.2017, directed the third respondent to pay a sum of Rs.4,73,372/- along with interest at the rate of 10% per annum from 01.05.2013 till the date of realization to the petitioner within 30 days from the date of receipt of the order. Since the third respondent failed to pay the amount, the petitioner once again approached the Controlling Authority and a notice dated 30.07.2018, to pay the difference in gratuity amount was sent by the Controlling Authority. On 27.09.2018, the Deputy Commissioner of Labour sent a letter along with a Certificate to the 1st respondent the District Collector, Salem under Section 8 of the Payment of Gratuity Act, for effecting recovery from the third respondent Corporation. As the third respondent has not yet honoured the said letter and has not remitted the payment to the petitioner, the petitioner is before this Court seeking for appropriate direction.

6. The petitioner in W.P.No.18231 had been in employment in the 3rd respondent Corporation and retired from service on 31.05.2014 as Senior Checking Inspector. However, the 3rd respondent denied to pay the gratuity amount due to him as per the provisions of the Payment of Gratuity Act, 1972. Hence, he filed an application in P.G.No.10 of 2016 before the Controlling Authority viz., Assistant Commissioner of Labour, Salem and after due enquiry, the Controlling Authority by order dated 16.12.2016 directed the third respondent to pay a sum of Rs.7,31,838/- along with interest at the rate of 10% per annum from 30.09.2020 till the date of realization to the petitioner within 30 days from the date of receipt of the order. Thereafter, the 3rd respondent remitted an amount of Rs.5,93,238/- on 23.05.2017 and Rs. 1,38,600/- on 16.08.2018 without any intimation to the petitioner or the Authority.

Since there was difference in the amount received by the petitioner and the amount arrived at as per the award passed by the Controlling Authority, the petitioner once again approached the Controlling Authority and a notice dated 22.07.2019, to pay the difference in gratuity amount was sent by the Controlling Authority. On 03.02.2020, the Deputy Commissioner of Labour sent a letter along with a Certificate to the 1st respondent the District Collector, Salem under Section 8 of the Payment of Gratuity Act, for effecting recovery from the third respondent Corporation. As the third respondent has not yet honoured the said letter and has not remitted the payment to the petitioner, the petitioner is before this Court seeking for appropriate direction.

7. Learned counsel for the petitioners submits that, for the non-payment of the gratuity due to the petitioners the Deputy Commissioner of Labour, Salem has issued a Certificate to recover the dues by invoking the provisions of Revenue Recovery Act. Hence, this Court may issue a direction to the first and second respondents to pass necessary orders in order to recovery the due amount from the third respondent as per the Certificates dated 02.06.2020, 31.01.2020, 09.04.2018, 27.09.2018 and 03.02.2020 with respect to the petitioners in each of the writ petition respectively.

8. Mr.Thangavel, learned Special Government Pleader appearing for the respondents submits that, the Certificates issued by the Deputy Commissioner of Labour, Salem will be considered in accordance with the provisions of the Revenue Recovery Act within a reasonable time as fixed by this Court, after affording due opportunity to the third respondent.

9. Accordingly, these writ petitions are disposed of with a direction to the respondents 1 and 2 in all these writ petitions, to recover the amount as per the Certificates dated 02.06.2020, 31.01.2020, 09.04.2018, 27.09.2018 and 03.02.2020 with respect to the petitioners in each of the writ petition respectively, within a period of twelve (12) weeks from the date of receipt of a copy of this order, after affording due opportunity of hearing to the third respondent.

10. With the above directions, the above writ petitions are disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KST

To

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

2.The Tahsildar, Salem Taluk
Salem - 636 007.

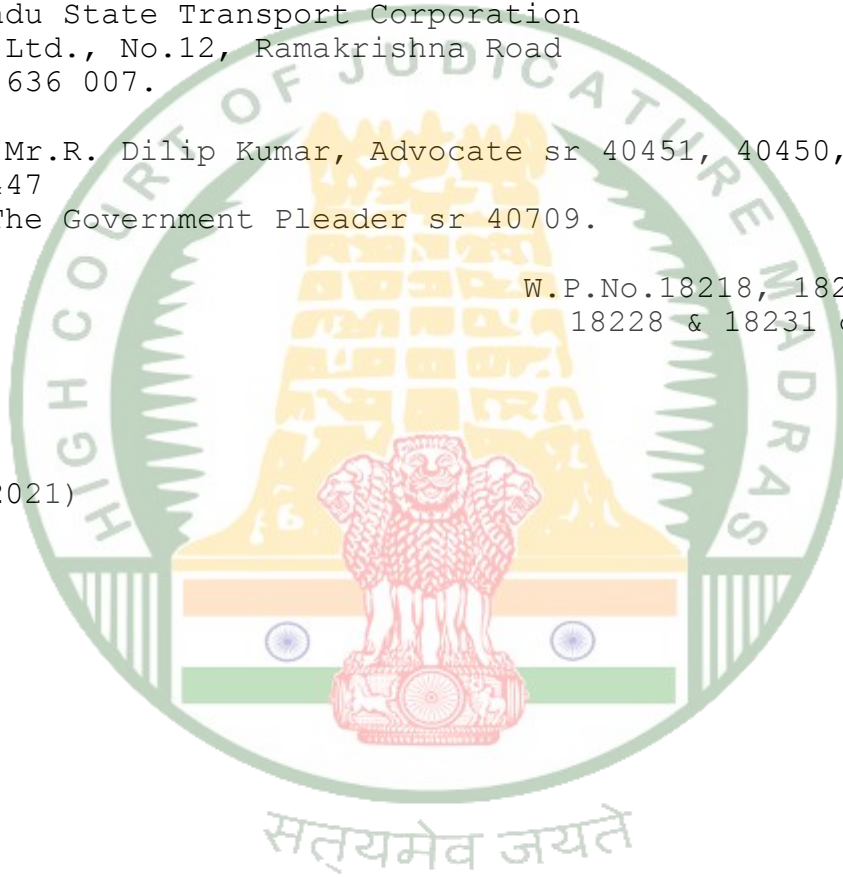
3.The Managing Director
Tamil Nadu State Transport Corporation
(Salem) Ltd., No.12, Ramakrishna Road
Salem - 636 007.

+5 Ccs to Mr.R. Dilip Kumar, Advocate sr 40451, 40450, 40449,
40448, 40447

+1 CC to The Government Pleader sr 40709.

W.P.No.18218, 18221, 18224,
18228 & 18231 of 2020

NMI (CO)
SP(25/01/2021)



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