



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2021

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.247 of 2021
and C.M.P.No.1049 of 2021

The Zonal Officer,
Zone XIII Madhavaram,
Greater Chennai Corporation,

formerly
The Commissioner,
Madhavaram Municipality,
Madhavaram, Chennai - 60.

...Appellant

Vs.

1.The Controlling Authority
under Payment of Gratuity Act, 1972,
The Assistant Commissioner of Labour,
Office of the Joint Commissioner II - Labour,
Chennai - 6.

2.P.Rajeswari

...Respondents

Appeal filed under Clause 15 of the Letters Patent
against the order dated 05.08.2020 in W.P.No.15809 of 2018.

Prayer in W.P. No. 15809/2018: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the 1st respondent herein in P.G. No.25 of 2017 and quash the Impugned Order dated 13.12.2017 and despatched on 14.02.2018 passed by the 1st respondent herein as highly illegal and arbitrary.

For Appellant

..Ms.Karthikaa Ashok

For Respondents

..Mr.Richardson Wilson for R1

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 05.08.2020 in W.P.No.15809 of 2018. Learned single Judge has dismissed the writ petition, filed by the present appellant.



2. Learned advocate for the appellant has submitted that learned Single Judge ought to have given an opportunity to file an appeal before the appellate authority. Without prejudice to this, it is further submitted that even on merits, the order passed by learned Single Judge and the order impugned in the writ petition are unsustainable and the same need to be interfered with.

3. Having heard the learned advocate for the appellant and having considered the material on record, this Court finds that controversy in the matter is with regard to payment of gratuity. The Assistant Commissioner of Labour - the Controlling Authority under the Payment of Gratuity Act had, vide order dated 13.12.2017 in P.G.No.27 of 2017 directed that the additional amount of Rs.45,703/- be paid to the concerned employee. It is not in dispute that the said order can be challenged before the Appellate Authority under the Payment of Gratuity Act. However, the condition precedent for such an appeal is deposit of the amount ordered by the Controlling Authority. The appellant, instead of approaching the appellate authority, filed writ petition before this Court.

4. It is indicated that, not only the employee has died but his widow, who had approached the Controlling Authority under the Payment of Gratuity Act, has also died by this time and it is under these circumstances, appropriate call has to be taken by this Court. The stakes are Rs.45,703/- plus interest thereon as per Rules. In the facts like this, any interference would be only detrimental to the interest of the employee / his surviving legal heirs.

5. For the above reasons, the order of the learned Single Judge does not call for any interference. Accordingly, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

//True Copy//

Sub-Assistant Registrar



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To

The Controlling Authority
under Payment of Gratuity Act, 1972,
The Assistant Commissioner of Labour,
Office of the Joint Commissioner II - Labour,
Chennai - 6.

+1 CC to M/s. Karthikaa Ashok, Advocate sr 58558.

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KSM(CO)
SP(01/12/2021)