



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.40504 of 2005
and
W.M.P.No.43453 of 2005

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

... Petitioner

vs.

1. Murugan

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

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records relating to the award passed by the 2nd Respondent herein G.A.No.270 of 2003 dated 14.01.2004 and quash the same.

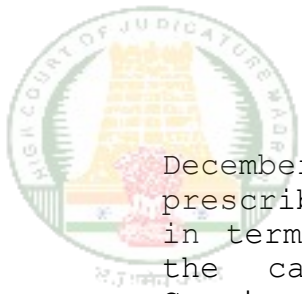
For Petitioner : Mr.B.Anand

For R1 & R2 : No Appearance

C O M M O N O R D E R

The Writ Petition has been filed, challenging the Award of the 2nd Respondent dated 14.01.2004, passed in G.A.No.270 of 2003, by which, the Petitioner herein was directed to pay gratuity to the 1st Respondent herein to the extent of Rs.30,992/- with 10% interest.

2. There is an appeal remedy available under the Payment of Gratuity Act, 1972 (in short 'the Act, 1972') and the Petitioner, in order to circumvent the deposit and without exhausting such remedy, has filed the present Writ Petition. The order of the Controlling Authority is dated 14.01.2004 and the present writ petition has been filed into the Registry only in



December, 2005, with a delay of almost 23 months. The time limit prescribed for filing an appeal is 120 days (60 days + 60 days) in terms of Section 7 (7) of the Payment of the Act, 1972. In the case of Onward Trading Company, Madras Vs. Deputy Commissioner of Labour, Madras and another reported in 1989 (2) LLN 672 and 673, this Court held that if the petitioner fails to deposit the amount of gratuity within the stipulated time, then the Appeal itself is incompetent.

3. Hence, finding no merits in the case of the Petitioner herein, this Writ petition is dismissed as devoid of merits and the 1st Respondent is entitled to gratuity amount. The 2nd Respondent is directed to issue a certificate to recover the amount together with interest @ 15% p.a. in terms of Section 8 of the Act, 1972, within a period of two weeks from the date of receipt of a copy of this order. On such certificate being issued, the District Collector and the Tahsildar shall implement the order and recover the amount for disbursement to the 1st Respondent, within a period of two weeks thereafter. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

ar

To:

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

Copy to:

1. The District Collector,
Coimbatore.
2. The Tahsildar,
Coimbatore.

W.P.No.40504 of 2005

SSV(CO)
SU(13/10/2021)