



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

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WEB COPY

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.22241 of 2021

(Through Video Conferencing)

K.Selvaraj

... Petitioner

Vs.

The Special Tahsildar,
Adi Dravidar Welfare Department,
Office of Tahsildar, Nannilam,
Tiruvarur District.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent dated 08.06.2021 made in Na.Ka.No.574/2019/AA withholding gratuity amount of the petitioner and to quash the same and consequently direct the respondent to disburse the gratuity amount forthwith prevailing rate of interest for the delayed period.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

Mr.L.S.M.Hasan Fizal, learned Government Advocate takes notice on behalf of the respondent.

2. The petitioner has filed the present writ petition on the strength of the order passed by this Court in K.Murugesan Vs E.Ulaganathan and another, 2009 (2) CTC 725.

3. It is the case of the petitioner that the petitioner attained the age of superannuation on 19.08.2020. Despite the petitioner having attained the age of superannuation, the respondents have wrongly withheld the gratuity contrary to Section 60(1) (g) of CPC.

4. The learned counsel for the petitioner further submits that the retiral benefits such as gratuity cannot be attached and therefore the writ petition is liable to be allowed at the stage of admission.

5. Appearing on behalf of the respondent, the learned Government Advocate submits that the respondent is unable to release the gratuity in the light of pending of O.S.No.496 of



2019 before the Principal District Munsif Court, Kumbakonam, wherein, the respondent herein has been arrayed as the second defendant along with the petitioner as the first defendant. The learned Government Advocate for the respondent further submits that in view of the pendency of the aforesaid proceedings, the respondent is unable to proceed further.

6. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

7. The plaintiff in O.S.No.496 of 2019 has not been arrayed as a respondent in this writ petition. Prima facie, the petitioner appears to have made out a case. The issue appears to be squarely covered by the decision cited by the learned counsel for the petitioner in K.Murugesan Vs E.Ulaganathan and another, referred to supra. However, if the writ petition is allowed, the suit filed before the Trial Court will become infructuous.

8. The petitioner has an option of filing appropriate application before the concerned Trial Court under C.P.C. Considering the same, the petitioner has given liberty to approach the Trial Court to file appropriate application to dispose the suit in the light of the decision of this Court in K.Murugesan Vs E.Ulaganathan and another, referred to supra.

9. If such an application is filed, the Trial Court may dispose the suit expeditiously preferably within a period of six months from the date of receipt of a copy of this order after filing of appropriate application by the petitioner.

10. This Writ Petition stands disposed in terms of the above observations. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

arb

To

The Special Tahsildar,
Adi Dravidar Welfare Department,
Office of Tahsildar, Nannilam,
Tiruvarur District.

+1cc to M/s.C.Prabakaran, Advocate, S.R.No.53958

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