

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2021

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

WP NO.20052 OF 2020

M.Saminathan

...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

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents 1 and 2 to recover the amount as per the certificate issued on 18.02.2020 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 Petitioner : Mr.T.Pichappa

For Respondents : Mr.B.Anand
1 and 2 Government Advocate

For Respondent 3 : Mr.D.Raghu

ORDER

This Writ Petition has been filed by the petitioner seeking for a direction to the respondents 1 and 2 to recover the amount as per the Certificate issued on 18.02.2020 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 the petitioner by the negligent act of the third respondent.

2.The petitioner was serving as an employee at the third respondent Transport Corporation and lastly he was serving as Traffic Inspector and on superannuation, he retired from service on 31.01.2017. The petitioner has rendered unblemished service for 29 years to the said Transport Corporation and therefore, he is entitled to get the gratuity under the provisions of the Payment of Gratuity Act, 1972, within 30 days from the retirement, which was not paid to the petitioner. Therefore, the petitioner has filed P.G.Case No.38 of 2018 before the Controlling Authority and on 11.12.2018 a direction was given to the third respondent to pay the gratuity amount of Rs.8,33,460/- along with interest at the rate of 10% per annum. In the meanwhile, out of the said amount, only a sum of Rs.7,65,600/- was paid to the petitioner on 16.06.2017.

3.After making the above payment, still there is a due to the extent of Rs.98,402/- by calculating the remaining due payable by the third respondent to the petitioner as gratuity with interest of 10% per annum, as allowed by the Gratuity Authority and in order to recover the said amount, the petitioner had approached the Labour Commissioner concerned. The Deputy Labour Commissioner, Salem, on considering the request of the petitioner, has passed an order dated 18.02.2020 in Na.Ka.No.B4/707/2019 addressed to the first respondent District Collector to invoke the provision under Revenue Recovery Act, for recovery of the said sum of Rs.98,402/- from the third respondent. Since the said request made by the Deputy Labour Commissioner to the first respondent District Collector has not been considered and no action has been taken by the District Collector, the petitioner has filed the present Writ Petition with the aforesaid prayer.

4.Heard the submissions made on either side and perused the materials available on record.

5.The learned counsel for the petitioner would submit that in view of the order dated 18.02.2020 of the Deputy Labour Commissioner, it is a duty on the part of the first respondent to initiate the revenue recovery proceedings.

6.On the other hand, Mr.B.Anand, learned Government Advocate appearing for the respondents 1 and 2 on instruction would submit that the order dated 18.02.2020 passed by the the Deputy Labour Commissioner in Na.Ka.No.B4/707/2019 would certainly be considered by the first respondent and in this regard, necessary direction would be given to the second respondent to recover the said amount of gratuity payable by the third respondent to the petitioner and the same may be deposited in the said account of the Deputy Labour Commissioner.

7.I have considered the said submissions made by the learned counsel appearing for the parties.

8.As has been rightly pointed out by the learned counsel for the petitioner, the Deputy Labour Commissioner has sent a communication in Na.Ka.No.B4/707/2019 dated 18.02.2020 to the first respondent District Collector for invocation of the provisions under Revenue Recovery Act for recovery of a sum of Rs.98,402/- towards the remaining amount of gratuity payable to the petitioner from the third respondent.

9.Considering the facts and circumstances of the case, this Court is inclined to pass the following order:

The first and second respondents are hereby directed to act upon, as per the request made by the Deputy Labour Commissioner, Salem, who is the Controlling Authority under the Payment of Gratuity Act, by his Proceedings in Na.Ka.No.B4/707/2019 dated 18.02.2020 and accordingly, by invoking the provisions of Revenue Recovery Act, the due payable by the third respondent to the petitioner towards the remaining balance of the gratuity to the extent of Rs.98,402/- shall be recovered and be deposited, as directed by the Deputy Labour Commissioner in the PG account and the needful, as has been indicated above, shall be undertaken by the first and second respondents within a period of eight weeks from the date of receipt of a copy of this order.

10.With these direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

tk
To

Sub Assistant Registrar

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

2. The Tahsildar
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3. The Managing Director
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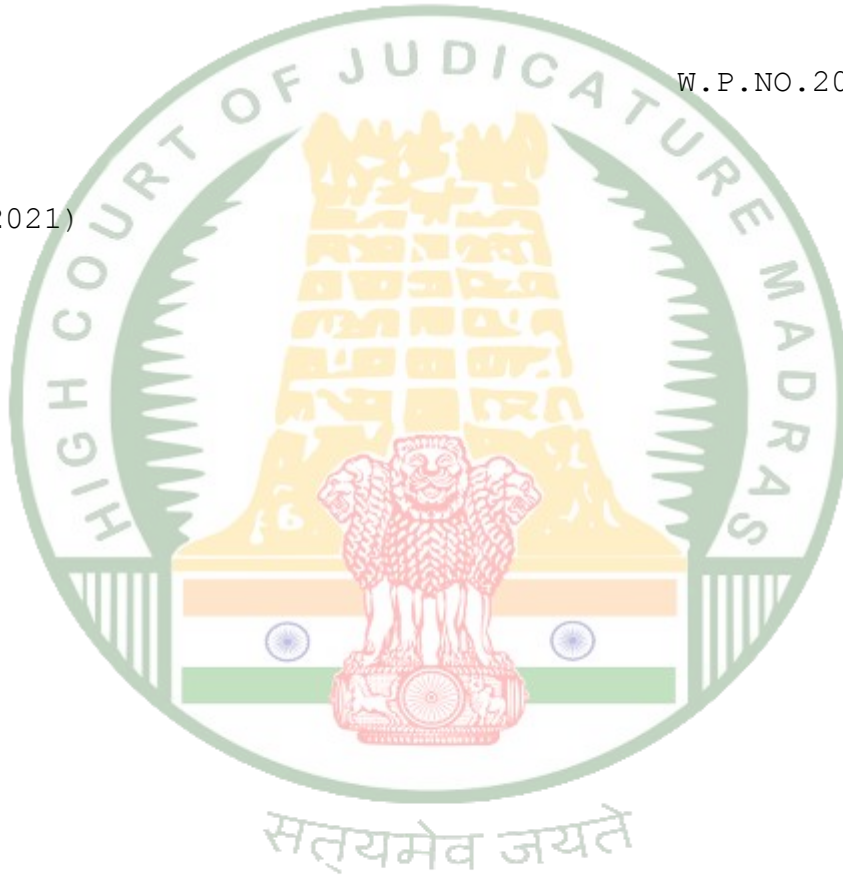
+1cc to Mr.D.Raghu, Advocate, S.R.No.1876

+1cc to Mr.T.Pichappa, Advocate, S.R.No.1910

+1cc to the Government Pleader, S.R.No.2123

W.P.NO.20052 OF 2020

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rv (03/02/2021)



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