



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1711 of 2022

Mr.V.Lakshmi Narasimman

... Petitioner

Vs.

1.The District Collector,
Erode District.

2.The Thasildar,
Gobichettipalayam,
Erode District.

3.The Controlling Authority,
Under Payment of Gratuity Act,
Assistant Commissioner of Labour,
Salem.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 and 2 to take a Demand Draft for a sum of Rs.33,750/- along with 10% interest from 07.07.2007 till the date of recovery of arrears of Gratuity Amount recovered under Revenue Recovery Act from M/s.Elite Engineering Corporation in favour of the Assistant Commissioner of Labour, Salem and deposit the same before the 3rd respondent within the time limit fixed by this Court.

For Petitioner : Mr.L.Mouli

For Respondents : Mrs.S.Anitha
R1 to R3 Special Government Pleader

O R D E R

The relief sought for in the writ petition is for a Mandamus, to direct the respondents 1 and 2 to take a Demand Draft for a sum of Rs.33,750/- along with 10% interest from 07.07.2007 till the date of recovery of arrears of Gratuity Amount recovered under Revenue Recovery Act from M/s.Elite Engineering Corporation in favour of the Assistant Commissioner of Labour, Salem and deposit the same before the 3rd respondent within the time limit.



2. Brief facts of the case:

On 08.07.1994, the petitioner had joined as Accountant in M/s. Elite Engineering Corporation and had resigned on 30.06.2007 and his last drawn salary was Rs.4,500/- per month and he is entitled to get a gratuity of sum of Rs.33,750/- and the same have to be paid within a period of one month from the date of termination of employment but the same has not been paid by the respondents 1 & 2 in spite of many requests. Hence, the petitioner was constrained to file a petition under Section 7(4) b of Payment of Gratuity Act in P.G.A.No.23/2013 before the third respondent and after enquiry, by its order dated 01.07.2014, the third respondent has directed M/s. Elite Engineering Corporation to pay the arrears of gratuity amount of Rs.33,750/- with interest at the rate of 10% from 07.07.2007 within one month. The said order has not been complied with and hence, the first respondent has ordered to take Revenue Recovery proceedings against the M/s. Elite Engineering Corporation and as per the order of the first respondent, the second respondent herein has initiated the proceedings and collected a sum of Rs.33,750/- with 10% interest till the date of recovery and thereafter respondents 1 & 2 did not take demand draft in favour of the third respondent. The petitioner has made representation to the second respondent on 16.11.2021 and in turn, the second respondent has issued a communication dated 15.12.2021 in Proc.No.Na.Ka.No.17072/2015/A3 stating that the arrears of Gratuity was collected from M/s. Elite Engineering Corporation by initiating Revenue Recovery proceedings and instead of depositing before the third respondent, the amount was deposited before the Sub-Treasury Office, Gobichettipalayam and therefore, they had sent a report dated 30.05.2018 to the first respondent for passing appropriate orders and the same is pending. Hence, the writ petition.

3. The learned counsel appearing for the petitioner would submit that as per the directions of the first respondent, the second respondent herein has initiated Revenue Recovery Proceedings and collected a sum of Rs.33,750/- with 10% interest till the date of recovery. Instead of drawing demand draft in favour of the third respondent, the amount was deposited before the Sub-Treasury Office, Gobichettipalayam. Further, in respect of the same, on 30.05.2015, the second respondent has sent a report to the first respondent, but till today the respondents 1 & 2 are not performing their statutory duty to deposit the arrears.

4. The learned Special Government Pleader appearing for the respondents would submit that based on the order dated 01.07.2014 and the letter dated 13.08.2015 of the Assistant Commissioner of Labour, Salem, the District Collector, Erode District in the proceedings Na.Ka.24958/2015/Ee2, dated



13.09.2015 has ordered the Tahsildar, Gobichettipalayam to collect the above amount of Rs.33,750/- + 10% interest from the above Management of Elite Engineering Corporation, Gobichettipalayam and draw the Bank Demand Draft in favour of the Assistant Commissioner of Labour, Salem under the intimation to the office of the District Collector, Erode. Albeit the above amount of Rs.33,750/- was collected from the above management by way of cheque, it was remitted to the Sub-Treasury Office, Gobichettipalayam, instead of drawing the demand draft in favour of the Assistant Commissioner of Labour, Salem. Further he would submit that in this connection, a bill was prepared and presented in the Sub Treasury, Gobichettipalayam for drawing the cheque in favour of the Assistant Commissioner of Labour, Salem and thereafter, the second respondent/Thasildhar has drawn the said amount of Rs.33,750/- through DD, SBI, Gobichettipalayam, in the name of the Assistance Commissioner of labour, Salem and the same was forwarded to the Assistant Commissioner Labour, Salem, on 22.02.2022, through Registered post. The said fact or said copy of the proceedings also served to the learned counsel appearing for the petitioner.

5.At this Juncture, the learned counsel for the petitioner would submit that the second respondent has complied the order to pay the aforesaid amount viz., Rs.33,750/-, as per the award passed by the third respondent/Assistant Commissioner of Labour, however, interest amount has not been recovered as per the order passed by the third respondent/Assistant Commissioner of Labour. To that extent the petitioner has approached the second respondent for recovering such interest portion, as per the award passed by the third respondent.

6.Taking into consideration the above facts and circumstances of the case, this Court is inclined to direct the second respondent to take immediate action in accordance with law, if any request made by the petitioner, to recover interest amount as awarded by the third respondent.

7.With the above direction this writ petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

Dua



To

1.The District Collector,
Erode District.

2.The Tahsildar,
Gobichettipalayam, Erode District.

3.The Controlling Authority,
Under Payment of Gratuity Act,
Assistant Commissioner of Labour, Salem.

+1cc to Mr.L.Mouli, Advocate SR.No.22182

+1cc to Special Government Pleader SR.No.22229

W.P.No.1711 of 2022

SKM(CO)
GMY(18/04/2022)