



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.No.6115 of 2019

Sri Muthukumaran Institute of Technology
Kundrathur Road
Chikkarayapuram, Near Mangadu
Chennai - 600 069
Represented by its Principal

...Petitioner

-vs-

1. T.Mahendar

2. The Payment of Wages Authority
Joint Commissioner of Labour-II
DMS Compound, Teyampet
Chennai-600 006.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the Second Respondent in its Order dated 17.09.2018 (dispatched on 31.01.2019 and served to the Petitioner on 01.02.2019) in P.W. Case No. 71 of 2018 and quash the same.

For Petitioner : Mr. T.Sundar Rajan

For Respondents: No appearance (for R1)

Mrs. C.Sangamithirai
Special Government Pleader (For R2)

O R D E R

Heard Mr.T.Sundar Rajan, Learned Counsel for the Petitioner, Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2.The First Respondent has made a claim against the Petitioner for wages under the Payment of Wages Act, 1936 (hereinafter referred to as 'the Act' for short), and the Second Respondent, who is the concerned authority under the Act, by order dated 17.09.2018 in P.W. Case No. 71 of 2018 held that the



First Respondent is entitled to a sum of Rs. 10,520/- towards arrears of salary and Rs.3,000- towards compensation aggregating to Rs.13,520/- which was directed to be paid within a period of 15 days. The Petitioner was entitled to prefer appeal against the said order within a period of 30 days from the date of its receipt under Section 17 of the Act in a Presidency Town before the Court of Small Causes and elsewhere before the District Court along with a certificate that the amount payable in the order under appeal has been deposited with the concerned authority. However, the Petitioner did not prefer any such appeal with the required deposit before the Appellate Authority, but has instead filed this Writ Petition on 27.02.2019 challenging the order passed by the Second Respondent.

3.The explanation given by Learned Counsel for the Petitioner for not having resorted to that alternative remedy provided under the statute is that the First Respondent, who had been engaged for teaching as Assistant Professor, is not a 'employed person' within the meaning of Section 2(ia) of the Act, meaning thereby that the Second Respondent did not have jurisdiction to entertain the claim for wages made by the First Respondent, and that the condition of depositing the amount due under the impugned order would have to be satisfied for preferring such appeal. The question as to whether the First Respondent is an 'employed person' is undoubtedly a matter which could be raised by the Petitioner in the appeal and it requires to be noticed here that such contention had not been raised in the impugned proceedings before the Second Respondent. That apart, the discretionary powers of this Court conferred under Article 226 of the Constitution to entertain Writ Petition cannot be a guise to circumvent the requirement of depositing the amount due as the condition for preferring appeal under a statute when such order is sought to be impeached.

4.In this context, it may be recapitulated here that the Hon'ble Supreme Court of India in Assistant Collector of Central Excise -vs- Dunlop India Limited [(1985) 1 SCC 260] has succinctly explained the legal position relating to the exercise of writ jurisdiction as follows:-

"3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the Constitution. But then the Court must have good and sufficient reason to bypass the alternative remedy provided by statute.



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Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the proceedings by one device or the other. The practice certainly needs to be strongly discouraged."

Having regard to the aforesaid incontrovertible legal position, there does not appear to be any justification to entertain this Writ Petition filed by the Petitioner to challenge the impugned order when alternative remedy to prefer appeal against the same before the Appellate Authority exists. Though obvious, it is clarified that no view has been expressed by the Court on the correctness or otherwise of the merits of the contentions raised by the Petitioner in the Writ Petition.

In the result, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Maya

To

The Payment of Wages Authority
Joint Commissioner of Labour-II
DMS Compound, Teyampet
Chennai-600 006.

+1cc to M/s.T.Sundar Rajan, Advocate, S.R.No.24333

+1cc to the Government Pleader, S.R.No.24920

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SSN(CO)
RGA(19/05/2022)