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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.34320 OF 2018

AND

W.M.P.NOS.39895 & 39896 OF 2018

The Senior Regional Manager,
The Tamil Nadu Civil Supplies Corporation,
Nagapattinam Region.

... Petitioner

.Vs.

1. The Joint Commissioner of Labour,
Trichy.
(Appellate Authority as under the
Payment of the Gratuity Act, 1972).

2. The Assistant Commissioner of Labour,
Trichy.
(Controlling Authority as under the
Payment of the Gratuity Act, 1972).

3. O.M.Pannerselvam

... Respondents

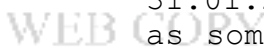
PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the 2nd respondent, the Assistant Commissioner of Labour, Trichy, Controlling Authority as under the Payment of the Gratuity Act, 1972 in PG.No.06/2016 dated 02.01.2017 and consequential order of the 1st respondent, the Joint Commissioner of Labour, Trichy, Appellate Authority as under the Payment of the Gratuity Act, 1972 in PG.A.No.101/2017 dated 15.03.2018 and to quash the said orders.

For Petitioner : Mr.P.Paramasiva Doss

For R1 & R2 : Mr.C.Selvaraj
Additional Government Pleader

For R3 : No Appearance





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been continued towards recovery proceedings. in the meanwhile, yet another show cause notice also was issued without mentioning the eariler one, on 24.01.2017. Thereafter, only on 15.12.2018, an order of recovery has been passed by the petitioner, of course, by way of summary proceedings in a cryptic manner, where it has been disclosed that no proceedings or enquiry has been conducted and merely based on the show cause notice, it was calculated by the petitioner that an amount of Rs.7,81,952/- has to be recovered and accordingly, recovery order was passed. The sustainability of the said order dated 15.12.2018, since it is a subject matter before the Appellate Authority, this Court does not want to express the opinion on the same.

15. Be that as it may, either by issuance of show cause notice dated 30.11.2016 or another show cause notice dated 24.01.2017, it will not entitle the petitioner to retain the gratuity payable to him. Assuming that, if any enquiry is conducted and after adopting the due process of law, ultimately, the petitioner comes to the conclusion that, the amount has to be recovered from the second respondent and order of recovery is passed to that effect, even then, the said amount can be recovered from the second respondent only from the due payable to the second respondent in various other heads and not from the amount payable under the Gratuity Act. This has been clearly spelt out in the circular issued by the petitioner on 28.07.2010, which has been already quoted herein. In view of the same, absolutely there is no plausible reason to interfere with the impugned order of the first respondent, who is the Appellate Authority under the Act and after having considered all these aspects, the said Authority passed the impugned order allowing the appeal filed by the second respondent, directing the petitioner to pay the gratuity payable to the second respondent. The time limit to pay, as directed by the first respondent/Appellate Authority, is within two months period from the date of receipt of a copy of this order."

5. In the light of the observations made in the aforesaid order of this Court, the writ petition does not require any



interference. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Joint Commissioner of Labour,
Trichy.
(Appellate Authority as under the
Payment of the Gratuity Act, 1972).
2. The Assistant Commissioner of Labour,
Trichy.
(Controlling Authority as under the
Payment of the Gratuity Act, 1972).
3. The Senior Regional Manager,
The Tamil Nadu Civil Supplies Corporation,
Nagapattinam Region.

+lcc to the Government Pleader, S.R.No.5999

W.P.NO.34320 OF 2018 AND
W.M.P.NOS.39895 & 39896 OF 2018

GP(CO)
PBS/24/02/2022