



W.P.(MD)No.15599 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.15599 of 2012

1. Santhanalakshmi
2. E.Parthasarathi
3. E.Santhosh Kumar

... Petitioners

Vs.

1. The District Collector,
Dindigul District,
Dindigul.

2. The Tahshildar,
Dindigul Taluk,
Dindigul.

3. Vincent Selvaraj (Deceased)
4. V.Ganaoundari
5. Fathima Arokiya Mary
6. Jancy Rani
7. Mariya Jenifer
8. Maria Sebastian Raja

... Respondents

***(R4 to R8 are substituted, vide Court order,
dated 08.06.2022 in W.M.P.(MD)No.11755 of 2021
in W.P.(MD)No.15599 of 2012)***



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents No.1 and 2 to implement the Na.Ka.No.61338/2005/B3 dated 17.11.2010 passed by the first respondent as per the G.O.(D).No. 765, Labour and Employment (B1), dated 24.05.2005 for the realization of the balance amount as per the computation of the benefits to the petitioners, within a time frame as may be fixed by this Court.

For Petitioners : Mr.Mr.G.Aravinthan

For R1 & R2 : Mr.C.Baskaran
Government Advocate (Civil side)

For R3 : Died

For R4 to R8 : Mr.A.Lourduraj



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ORDER

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This Writ Petition is filed for Writ of Mandamus, directing the respondents No.1 and 2 to implement the order, dated 17.11.2010 passed by the first respondent as per the G.O.(D).No. 765, Labour and Employment (B1), dated 24.05.2005 for the realization of the balance amount as per the computation of the benefits to the petitioners.

2. The contention of the petitioner is that the third respondent herein had dismissed the petitioner's husband from service with effect from 13.03.1987, challenging the order of the dismissal, the petitioner's husband has raised an Industrial Dispute in I.D.No.279 of 1989 under Section 2(A)(2) of the Industrial Disputes. The third respondent remained ex-parte and an ex-parte award, dated 24.09.1990 was passed by the Presiding Officer, Labour Court, Madurai, directing the third respondent to reinstate the petitioner's husband in service and also directed to grant backwages and all the attendant benefits. The third respondent filed an application to set aside the ex-parte award and the same was renumbered as in I.A.No.311 of 1991 in I.A.No.259 of 1990



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and the same was dismissed for default on 16.10.1991. Thereafter, filed yet another application to restore the same but along with an application to condone the delay of 441 days in filing the application and finally the said application was dismissed on merits by an order, dated 08.02.1994. Even thereafter, the third respondent did not comply with the terms of the award, hence the petitioner's husband claim petition in C.P.No.28 of 1995. The third respondent as usual remained ex-parte before the Labour Court and the Labour Court vide order, dated 27.12.2000 computed the benefits at Rs.1,36,173/- (Rupees One Lakh Thirty Six Thousand One Hundred and Seventy Three only) with interest at 18% per annum from 01.04.1993 till the date of payment.

3. In the meantime, the third respondent filed two writ petitions before this Honourable Court challenging the ex-parte award, dated 24.09.1990 passed in I.D.No.279 of 1989 and also the order, dated 08.02.1994 dismissing the application to condone the delay of 441 days. But, subsequently the third respondent has withdrawn both the writ petitions. Thereafter, the petitioner's husband approached the



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Government for recovery of the award amount and the Government has passed an order in G.O.(D)No.765 Labour and Employment (B1), dated 24.05.2005, directing the first respondent to recover the amount as provided under Section 33 (c)(i) of the Act. The first and the second respondents attached the properties of the third respondent, after attachment the third respondent filed a writ petition in W.P.(MD)No. 29683 of 2005 before the Principal Seat of this Court and this Honourable Court granted a conditional order of interim stay directing the third respondent to deposit Rs.1,36,713/-(Rupees One Lakh Thirty Six Thousand One Hundred and Seventy Three only) and the said order was complied by the third respondent. The petitioner's husband has filed a vacate stay petition and this Honourable Court, vide order, dated 22.02.2006, permitted the petitioner's husband to withdraw the amount, without furnishing security and the interim order was made absolute. As against the order, dated 22.02.2006, the third respondent has preferred a writ appeal in W.A.No.388 of 2006 and though the order of interim stay was granted initially, subsequently the writ appeal was dismissed by an order, dated 05.09.2006, with a modification that the petitioner's husband



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should furnish an undertaking that in the event of the writ petition is allowed, the petitioner's husband should deposit the money back to the third respondent. Finally, when the above writ petition was posted for final disposal, there was no representation on behalf of the third respondent and finally, by an order dated 05.03.2007, the above writ petition in W.P.(MD)No.29683 of 2005 was dismissed for default. The third respondent has not taken any steps to restore the same.

4. In order to receive the monetary benefits of the award in C.P.No.28 of 1995, the petitioner's husband made a representation to the first and second respondents on 21.04.2007 and thereafter, on 09.07.2007, to realize the balance amount. But the first and second respondents are inactive without making any efforts to proceed with the attachment. Hence, the petitioner's husband approached this Honourable Court by filing a writ petition in W.P.(MD)No.6482 of 2007, to direct the first and second respondents to implement the G.O.(D)No.765 Labour and Employment (B1), dated 24.05.2005. On receipt of the said notice, the third respondent has preferred another writ petition in W.P.(MD)No.



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8425 of 2007, challenging the order passed by the second respondent, vide order, dated 24.09.2007. In the meanwhile, the petitioner's husband died on 30.07.2008. Thereafter, the petitioner has filed a substitution petition and impleaded herself in the proceedings. The said writ petition was dismissed, vide order, dated 03.09.2010 and allowed the writ petition filed by the petitioner's husband. At the time of disposal of the writ petition, this Court has held that the third respondent is liable to pay a sum of Rs.2,54,643/- (Rupees Two Lakh Fifty Four Thousand Six Hundred and Forty Three only) as on 20.07.2010. Thereafter, the petitioner approached the first and second respondents to take steps to implement the award and recover the amount of Rs.1,31,173/- (Rupees One Lakh Thirty One Thousand One Hundred and Seventy Three only) together with interest Rs.1,45,602.03/- accrued thereon. The first respondent, vide proceedings, dated 17.11.2010, on the light of the orders passed by the above writ petition, directed the second respondent to initiate proceedings under Revenue Recovery Act, to recover Rs. 2,54,643/- (Rupees Two Lakh Fifty Four Thousand Six Hundred and Forty Three only). When the said writ petition is pending, the third



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respondent has filed an application in I.A.No.215 of 2005 in C.P.NO.28 of 1995 to condone the delay of nearly five years in filing application to set aside the order dated 27.12.2000 made in C.P.No.28 of 1995. The said application was dismissed on 25.07.2008. Challenging the dismissal of the said application, the third respondent has filed a writ petition in W.P.(MD)No.10214 of 2009. An ex-parte order, dated 27.12.2000 was challenged in W.P.(MD)No.14592 of 2010. Both the writ petitions came up for hearing and the same was dismissed. Hence, all the proceedings reached their finality.

5. In these circumstances, the petitioner submitted a representation, dated 01.02.2012, to implement the order. Since the same was not implemented, the petitioner has come up with this present writ petition. This writ petition was filed in the year 2012. In the meanwhile, the third respondent also died and the respondents No.4 to 8 were impleaded as a legal heirs, vide order dated 08.06.2022 through W.M.P. (MD)No.11755 of 2021. Now the claim of the petitioner is to pay the balance amount of Rs.2,76,775.03/-.



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6. Today when the matter was taken up for hearing, the learned Counsel appearing for Respondents No.4 to 8 submitted that since they are only the legal representatives of the deceased third respondent, they are financially in a weak position, therefore, instead of paying the interest of Rs.2,76,775/- they submitted to pay Rs.60,000/- and record the same as full and final settlement. However, the learned Counsel appearing for the petitioner objected to the same. The learned Counsel appearing for the third respondent submitted that the third respondent was sick and several medical expenses were incurred by the family and the third respondent's Mary Madha Rice Mill was already closed in the year 1987 itself. Therefore, the respondents No.4 to 8 are financially in a weak position, they cannot pay the entire interest portion. Now the respondents are being represented by the legal heirs of the deceased third respondent. Since both the legal respondents being are before this Court, this Court deems it fit to settle the entire issue.

7. It is an admitted fact that the petitioner has received the balance



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amount of Rs.1,31,173/-. However, the petitioner is claiming the interest alone. Therefore, this Court is of the considered opinion that if the respondents No.4 to 8 pays Rs.60,000/- (Rupees Sixty Thousand only) as full and final settlement that would meet the ends of justice. Today the petitioner had received the said amount in Demand Draft. Therefore, recording the same as full and final settlement, this writ petition is disposed of. The third respondent has already deposited Rs.2,54,643/- (Rupees Two Lakh Fifty Four Thousand Six Hundred and Forty Three only). The petitioner is at liberty to withdraw the said amount. Therefore, by recording the withdrawal as well as Rs.60,000/- (Rupees Sixty Thousand only) the petitioner's liability is settled as full and final settlement by the third respondent.

8. With the above said observation, this Writ Petition is disposed of. No costs.

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Index : Yes / No
Internet : Yes / No
jbr

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To

1. The District Collector,
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Dindigul.

2. The Tahshildar,
Dindigul Taluk,
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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.15599 of 2012

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