



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Special Original Jurisdiction)

Thursday, the Eleventh day of August Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

W.M.P. (MD)No.10166 of 2022

in

W.P. (MD)No.3608 of 2021

K.RAMALINGAM

... PETITIONER/2nd RESPONDENT

Vs

1 THANTHONI AGRO ENGINEERING SERVICES,,
CO-OPERATIVE CENTRE LIMITED
REPRESENTED BY ITS
LIQUIDATOR/SENIOR AGRICULTURAL OFFICER,
SOIL TESTING LAB,
THILLAI NAGAR, RAYANUR,
THANTHONI

...1st RESPONDENT/WRIT PETITIONER

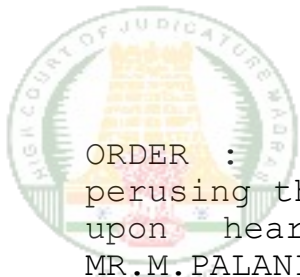
2 THE DEPUTY COMMISSIONER OF LABOUR,
THE CONTROLLING AUTHORITY UNDER THE
PAYMENT OF GRATUITY ACT 1972,
DINDIGUL.

... 2nd RESPONDENT/1st RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant ad-interim direction, directing the 1st respondent in the writ petition to disburse the gratuity amount initially to the petitioner subject the outcome of the writ petition in regard to claim of belated interest pending disposal of the writ petition.

Prayer in WP(MD) . 3608/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in P.G 6/2018 dated 23.11.2018 under payment of Gratuity Act, 1972 and quash the same as illegal.



ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.GURUNATHAN, Advocate for MR.M.PALANISELVAM, Advocate for the petitioner and of MR.J.LAWRANCE, Advocate for 1st Respondent and MR.M.SIDDHARTHAN, Additional Government Pleader for 2nd Respondent, the court made the following order:-

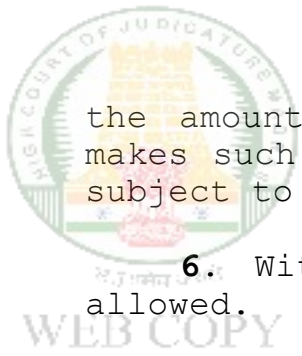
In the main writ petition, the writ petitioner had challenged the order of the Original Authority, passed under the provision of Payment of Gratuity Act, 1972, determining the Gratuity amount to be payable at Rs.3,60,000/-, together with simple interest at the rate of 10% p.a. The writ petitioner had not challenged the order before the appellate authority. The present writ petition has been filed after about four years, when the petitioner herein had initiated proceedings for recovery of the amount determined in the Payment of Gratuity Act, under the Provision of the Revenue Recovery Act.

2. By an interim order dated 24.02.2021, the order of the Original Authority dated 23.11.2018, was stayed, on condition that the writ petitioner pays a part sum of Rs.3,60,000/- alone. In compliance of the interim order, the Management has also deposited the same before the first respondent on 31.03.2021. The present application seeks for withdrawal of the amount deposited.

3. Learned counsel for the writ petitioner submitted that the surcharge proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act was completed and certain amounts have been ordered to be recovered from the petitioner. Such factual grounds cannot be raised in the writ proceedings particularly, when the writ petitioner has not preferred an appeal.

4. The issue as to whether the petitioner is entitled to seek for setting aside the order of the Original Authority, without availing an appeal remedy, would be decided at a later stage. However, being satisfied with the reasons stated in the affidavit and also taking note of the fact that the Management has not challenged the original order in time before the appellate authority and has straight away invoked article 226 of the Constitution of India, I am of the view that the part amount i.e., Rs.3,60,000/-, out of the total sum awarded by the Original Authority, can be withdrawn by the petitioner herein, subject to the final decision to be arrived at by this Court.

5. Accordingly, the petitioner is permitted to withdraw a sum of Rs.3,60,000/- lying in deposit before the first respondent herein in the account of P.G.6/2018, on filing of an appropriate application. The first respondent herein shall forthwith disburse



the amount, preferably on the same day, on which the petitioner makes such an application for withdrawal. Such withdrawal would be subject to the final decision taken in the present writ petition.

6. With the above direction, this miscellaneous petition is allowed.

sd/-
11/08/2022

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/08/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE DEPUTY COMMISSIONER OF LABOUR,
THE CONTROLLING AUTHORITY UNDER THE
PAYMENT OF GRATUITY ACT 1972,
DINDIGUL.

+1 CC to M/s.PALANISELVAM.M, Advocate (SR-8386[I] dated 11/08/2022)
+1 CC to M/s.J.LAWRENCE, Advocate (SR-8450[I] dated 12/08/2022)

ORDER
IN
W.M.P. (MD) No.10166 of 2022
in
W.P. (MD) No.3608 of 2021
Date :11/08/2022

vsm
PKP/VR/SAR-4/29.08.2022/3P/4C