



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.1736 of 2016

and

W.M.P. (MD) .No.1502 of 2016

Sundaramoorthy

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.The Regional Manager,
ISS SDB Security Service,
Shenoy Nagar,
12/27, Kakkan Street,
First Floor, Shenoy Nagar,
Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in I.D.No.15/14 on the file of the first respondent Labour Court, Madurai and quash the same subsequently direct the respondent to reinstate the writ petitioner and with all back wages and other benefits.

For Petitioner	: Mr.G.Manikandan
For R-1	: Labour Court
For R-2	: No Appearance

ORDER

The petitioner has challenged the I.D.No.15/14 award dated 26.10.2015.

2. The brief facts of the case are that the petitioner was appointed as Security in the second respondent Security Service and initially he was posted in Kalugoorani Sai Regency from 15.06.2010. The petitioner was paid a salary of Rs.8,000/- and he has paid



subscription for Employee Provident Fund in the Employee State Insurance after reducing the service charges from the above said amount from the engaging concern and after reducing services charge from Rs.1500/- was paid salary. The petitioner claims even though he joined the service on the basis of the assurance that he will be paid salary of Rs.8000/- but he was paid only Rs.5000/- for month. On 31.08.2013, he was paid only 27 days as salary. The petitioner demanded the remaining portion of the salary. Thereafter, the respondents dismissed the petitioner from service. Aggrieved over, the petitioner has preferred the petition before the Labour Court. The Labour Court has considered the entire issue and has dismissed the I.D. Petition. Aggrieved over, the present Writ petition is filed. The respondents are not represented by their counsel.

3. The learned counsel for the petitioner submitted that the Labour Court has declined the claim only on the basis that the petitioner was reemployed in some other concern. On perusal of the Labour Court award, it is seen that the Labour Court has also discussed about the other issues raised by the petitioner. The categorical finding is there that the petitioner has demanded gratuity and he was intended to leave the job and hence the Labour Court declined the prayer of the petitioner. The Learned counsel for the petitioner submitted before this court that the petitioner is entitled to gratuity and EPF. On perusal of the affidavit, it is seen that the petitioner joined service from 06.11.2010 and left the service on 20.07.2013. The petitioner is entitled to gratuity if he has completed five years of service. Since the petitioner has completed only three years of service and hence, he is not entitled to gratuity. As far as the EPF is concerned, the petitioner has stated in the affidavit before the Labour Court that the respondents have deducted the contribution of EPF and had deposited.

4. Therefore this Court is of the considered opinion that the petitioner is entitled to EPF, if it is deducted by the respondents. The respondents are directed to pay the EPF to the petitioner, if it so deducted.

5. With this modification, the Labour Court award is confirmed. The Writ Petition is disposed of as stated above. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

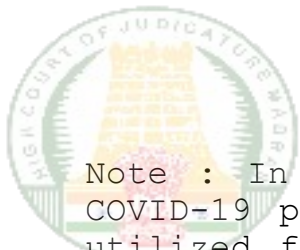
Deputy Registrar (Accounts)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Presiding Officer,
Labour Court,
Madurai.
- 2.The Regional Manager,
ISS SDB Security Service,
Shenoy Nagar,
12/27, Kakkan Street,
First Floor, Shenoy Nagar,
Madurai.

+1 CC to M/s.G.MANIKANDAN, Advocate (SR-8252[F] dated 24/02/2022)
W.P. (MD) .No.1736 of 2016
23.02.2022

MGJ(18.03.2022) 3P 4C