



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.7777 of 2021

and

W.M.P.No.8315 of 2021

The Managing Director,

Tamilnadu Small Industries Development Corporation Ltd.,

Guindy Industrial Estate, Chennai - 600 032.

... Petitioner

Vs.

1. The Joint Commissioner of Labour,
DMS Complex, 6th floor,
Teynampet, Chennai - 600 006.

2. The Deputy Commissioner of Labour,
DMS Complex, Teynampet,
Chennai - 600 006.

3. Mr.P.Sekki

... Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records on the file of the first respondent dated 16.02.2021 in reference No.O.M/E/205/2021 and to quash the same as illegal & improper and to consequently direct him to number the appeal dated 19.01.2021.



For Petitioner : Mr.G.Vasuthevan.

For Respondent : Mr.D.Gopal,
Government Advocate,
For R1 & R2.

ORDER

This writ petition has been filed challenging the order dated 16.02.2021 passed by the first respondent vide bearing No.O.M/E/205/2021, to quash the same as illegal and improper and to consequently direct him to number the appeal dated on 19.01.2021.

2. The third respondent was formerly working as an Accounts Officer in Tamil Nadu Small Industries Development Corporation Ltd. and he was placed under suspension on 23.08.1988 for an alleged misappropriation of Corporation Funds. The Enquiry Officer held that the charges levelled against the third respondent were proved. Thereafter, the disciplinary authority dismissed the third respondent from service with effect from 03.07.1989 vide his proceedings No.36610/EC2/88. The writ petitioner challenged the said proceedings before this Court in W.P.No.2265 of 1993 and a Division Bench of this Court vide orders



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dated 31.08.2009 allowed the writ petition, as against which, a Special Leave Petition was filed before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its order dated 10.10.2017 had observed thus:-

"We modify the impugned order to the effect that the respondents will be deemed to have been compulsorily retired and they may be given terminal benefits on that basis only proportionate to the actual service rendered by them for future w.e.f. 1st December, 2017, without any arrears."

3. Subsequently, the third respondent filed a petition before the second respondent in P.G.No.71/2019 seeking gratuity for 32 years of service and the third respondent vide his orders dated 06.02.2020, directed the petitioner to pay the third respondent, a sum of Rs.36,614/- with interest at the rate of 10% per annum from 02.08.1989 to till 27.12.2019.

4. Aggrieved over the same, the Management filed an appeal before the first respondent with a delay of more than 200 days. The Appellate Authority did not condone the delay of 200 days on the ground that as



per Section 7(7) of Payment of Provident Fund Act, 1972, an appeal should be filed within a period of 120 days. Now, the present writ petition is filed, challenging the same.

5. The learned counsel for the petitioner would contend that the appeal was filed during the year 2020 and due to Covid-19 pandemic situation, the Hon'ble Supreme Court directed all the Courts, Tribunals etc., to not enforce the Limitation Act. The first respondent, without taking into consideration this aspect, dismissed the petition filed for condoning the delay of 200 days. He would also contend that the third respondent Authority had directed the petitioner to pay interest from the year 1989, when the Hon'ble Supreme Court had clearly held that the third respondent is entitled to the said amount only from the year 2017.

6. Mr.P.Solomon, learned Counsel appearing for the third respondent would contend that the third respondent is now 80 years old and he is at present residing in Ramnadu District, which is far away from Chennai. Therefore, he may not be in a position to attend the proceedings, if the



matter is remitted back to number the appeal by the first respondent. He also fairly conceded that the third respondent is entitled to get interest only from 01.12.2017 to 27.12.2019.

7. The learned counsel for the petitioner accepted this proposal of the third respondent.

8. In view of the above submission, the writ petitioner is directed to pay interest to the third respondent at the rate of 10% per annum for Rs.30,614/- from 01.12.2017 to 27.12.2019.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.11.2023

Index: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.

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To

1. The Joint Commissioner of Labour,
DMS Complex, 6th floor,
Teynampet, Chennai - 600 006.
2. The Deputy Commissioner of Labour,
DMS Complex, Teynampet,
Chennai - 600 006.

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