



WEB COPY



W.P.No.12984 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2023

CORAM

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

W.P.No.12984 of 2020

D.Neethipathi

... Petitioner

Vs.

1. The District Collector,
Salem District,
Salem - 636 001.

2. The Managing Director,
Tamilnadu State Transport Corporation
(Salem) Ltd.,
12, Ramakrishna Salai,
Salem - 636 007.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Mandamus, directing the 1st respondent to recover a sum of Rs.2,66,499/- being the arrears of gratuity and interest from the 2nd respondent under Revenue Recovery Act as per the Certificate, dated 25.06.2018, issued by the Assistant Commissioner of Labour, Salem.

For Petitioner : Mr.G.Pugazhenth

For Respondents : Ms.C.Meera Arumugam,
For R1 and R2 : Additional Government Pleader



W.P.No.12984 of 2020

WEB COPY

ORDER

The brief facts of the case in a nutshell are as follows:

The petitioner was working as a Senior Tradesman in the Tamilnadu Transport Corporation from 28.11.1981 and he retired on 30.04.2013 on superannuation. He submitted an application in P.G.No.176/2015 before the Controlling Authority under the Payment of Gratuity Act / the Assistant Commissioner of Labour, Salem seeking a direction for Payment of Gratuity to him by the 2nd respondent/Tamilnadu State Transport Corporation (Salem) Ltd. After full fledged enquiry, the Assistant Commissioner of Labour vide his orders dated 16.12.2016 directed the 2nd respondent / Transport Corporation to pay a sum of Rs.4,78,056/- to the petitioner towards gratuity with interest at 10 % per annum from the date of retirement till the date of realization. The Assistant Commissioner of Labour, Salem also issued a notice dated 05.06.2017 calling upon the 2nd respondent to deposit a sum of Rs.4,78,056/- along with interest at 10% per annum within a period of 15 days. However, the 2nd respondent paid only a sum of Rs.4,27,337/- on 23.05.2017 and did not pay the balance amount.



W.P.No.12984 of 2020

WEB COPY

As on the date of filing of the Writ Petition, the 2nd respondent is due and liable to pay a sum of Rs.2,66,499/- and despite the letter dated 08.08.2017 issued by the Assistant Commissioner of Labour to deposit the said amount, no amount was paid by them.

2. Thereafter, the Assistant Commissioner of Labour, Salem issued a Certificate dated 25.06.2018 under Section 8 of the Payment of Gratuity Act for recovery of arrears of amount of Rs.2,66,499/- to the 1st respondent. According to the writ Petitioner, till date no action has been taken by the 1st respondent to recover the amount from the 2nd respondent Corporation.

3. Mr.G.Pugazhenth, learned counsel for the petitioner contended that though the Assistant Commissioner of Labour, Salem passed an order on 16.12.2016 in P.G.No.176/2015 and also issued a Certificate on 25.06.2018 under Section 8 of the Payment of Gratuity Act, the 1st respondent has not initiated any action till date for recovery of the arrears of gratuity of Rs.2,66,499/- from the 2nd respondent. In this



W.P.No.12984 of 2020

WEB COPY

regard, the writ petitioner also submitted a representation dated 27.01.2020 to the 1st respondent to recover the said amount from the second respondent, but the same did not evoke any response. He therefore seeks a direction to the 1st respondent to proceed further under the Revenue Recovery Act.

4. A perusal of the orders, dated 16.12.2016 and the Certificate issued by the Assistant Commissioner of Labour, dated 25.06.2018 under Section 8 of the Payment of Gratuity Act shows that the 1st respondent was directed to proceed against the 2nd respondent to recover the amount under the Revenue Recovery Act. The communication was sent to respondent even during the year 2018 and till date, no steps have been taken by the 1st respondent to recover the amount from the 2nd respondent. The representation of the petitioner, dated 27.01.2020 to the the 1st respondent to recover the amount of Rs.2,66,499/-, also went in vain.



W.P.No.12984 of 2020

WEB COPY

5. It is needless to point out that whenever a representation of this nature is made to the Statutory Authority, there is a duty cast upon them to consider the same on its own merits and pass appropriate orders in one way or the other, without keeping the same pending indefinitely.

6. In the circumstances, this Court directs the 1st respondent to consider the representation of the petitioner in accordance with law after giving notice to the 2nd respondent and pass orders on merits and proceed further in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of.

No costs.

05.10.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

R. HEMALATHA, J.

Page 5 of 6



WEB COPY



W.P.No.12984 of 2020

vum

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W.P.No.12984 of 2020

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