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W.P.No.37230 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.37230 of 2016

and

W.M.P.No.31963 of 2016

The Management,
Tamilnadu State Transport Corporation (Kovai) Ltd.,
Chennimalai Road, Erode – 1.

... Petitioner

Vs.

1.The Assistant Commissioner of Labour (i/c),
Salem (The Controlling Authority as under
the Payment of Gratuity Act, 1972)

- 2.D.Devendran
- 3.C.Duraiswamy
- 4.K.Devadoss
- 5.C.N.Chidambaram
- 6.S.Chelladurai
- 7.S.Balasubramaniam
- 8.P.Chandran
- 9.Rajammal
- 10.R.Vetrivel
- 11.M.Vijayachandran
- 12.S.Jayaraman
- 13.M.Kadermohideen
- 14.M.Kumar
- 15.A.Krishnasamy



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- 16.N.Krishnan
17.P.Devaraj
18.M.Selvaraju
19.R.Subramanian
20.C.Sadhasivam
21.G.Sampathkumar
22.N.Subramaniyan
23.K.Ravichandran
24.S.P.Raju
25.V.R.Palanisamy
26.P.Nagarajan
27.A.Narayanan
28.K.Mani
29.K.Kuppusamy
30.M.Eswaramoorthy
31.N.Duraisamy

Respondents 2 to 32 are
C/o. C.I.T.U Office,
No.1, Kumarasamy Street,
Erode – 638 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the common order passed by the 1st respondent in P.G.No.78/2015 to P.G.No.107/2015 dated 01.03.2016 and quash the same.

For Petitioner : Mr.Murali Vinoth

For Respondents : Mr.M.S.Prem Kumar
Government Advocate [R1]
Mr.V.Ajoy Khose [R2 to R31]



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ORDER

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This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records of the first respondent in P.G.No.78/2015 to P.G.No.107/2015 dated 01.03.2016 and quash the same.

2. The case of the petitioner is that, the private respondents have filed applications under the Payment of Gratuity Act, 1972 (in short 'the Act') before the first respondent and the first respondent has allowed the claims with 10% interest and passed award in favour of the respondents 2 to 31 on 01.03.2016. Challenging the same, the above writ petition has been filed before this Court.

3. The learned counsel for the petitioner submits that, during the pendency of this writ petition, the petitioner-Management paid the entire award amount along with 6% interest to the respondents 2 to 31. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the respondents 2 to 31 submits that, as against the order passed by the first respondent, there is an



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effective appeal before the appellate authority under Section 7 of the Act.

However, contrary to the order of the first respondent, the petitioner-Management paid only 6% interest instead of 10%, which is not sustainable. As per the statute, the respondents 2 to 31 are entitled for 10% interest. Hence, he prays that, this Court may issue a direction to the petitioner-Management to pay the differential amount to the respondents 2 to 31 or direct the petitioner-Management to prefer an appeal before the appellate authority under Section 7 of the Act.

5. Heard the learned counsel for the petitioner, learned Government Advocate appearing for the first respondent and the learned counsel appearing for the respondents 2 to 31 and perused the materials available on records.

6. As rightly pointed out by the learned counsel appearing for the respondents 2 to 31 that, as against the order passed by the first respondent, there is an effective appeal remedy under Section 7 of the Act. However, without exhausting the appeal remedy available before the appellate authority, filing this writ petition is not sustainable. Hence, the



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prayer sought for in the present writ petition cannot be granted and the writ petition is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. However, it appears that, during the pendency of this writ petition, the petitioner-Management paid the entire award amount along with 6% interest instead of 10%. Therefore, the petitioner-Management is directed to pay the balance amount to the respondents 2 to 31 as awarded by the first respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

24.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Assistant Commissioner of Labour (i/c),
Salem. (The Controlling Authority as under
the Payment of Gratuity Act, 1972)



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M.DHANDAPANI, J.

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