



WEB COPY



W.P.No.16993 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.16993 of 2022

M. Malik John

... Petitioner

Vs.

1. The Collector,
Dharmapuri District,
Dharmapuri 636 705

2. The Management
Tamil Nadu State Transport Corporation (Salem) Limited
Dharmapuri Region, Bharathipuram,
Dharmapuri 636 705

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 1st respondent to recover a sum of Rs.1,08,893/- being the arrears of gratuity and interest arrears calculated on and from 01.07.2015 till the date of payment under Revenue Recovery Proceedings as per the certificate vide Na.Ka. No.B4/5009/2019 dated 22.11.2021 issued by the Assistant Commissioner of Labour, Salem (Controlling Authority under the payment of Gratuity Act, 1972) under Section 8 of the Payment of Gratuity Act within a stipulated time and disburse the same to the petitioner.

For Petitioner : Mr.K.M. Ramesh, Senior Counsel
Assisted by Mr. V. Subramani



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For R1 : Ms. C. Meera Arumugam
Additional Government Pleader
For R2 : Mr.D.Chandrasekaran
Special Government Pleader
Assisted by Mr.K.Raja,
Standing Counsel for R2.

ORDER

This Writ Petition is filed for directions to the District Collector, Dharmapuri District (1st respondent) to recover a sum of Rs.1,08,893/- being the arrears of gratuity and interest under the Revenue Recovery Act as per the certificate issued by the Assistant Commissioner of Labour, Salem, who is also the Controlling Authority for payment of Gratuity.

2. The petitioner Malik John joined as a driver with Tamil Nadu State Transport Corporation, Dharmapuri, on 27.11.1987 and superannuated on 31.05.2018 after completing 25 years of service. Since he was not paid the full gratuity amount as claimed by him i.e. Rs.5,58,261/- along with interest @ 10% per annum, he approached the Gratuity Authority under Payment of Gratuity Act in P.G. No.106/2018 for payment of difference in Gratuity amount and the same was disallowed by an



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order dated 31.07.2019. In fact he was paid only a sum of Rs.4,49,368/- by the 2nd respondent and there is still a balance of Rs.1,08,893/-. The Petitioner filed an appeal before the Additional Commissioner of Labour, Coimbatore, in P.G.Appeal Case No.90/2019. The Additional Commissioner of Labour, Coimbatore, allowed the said appeal, vide orders dated 31.05.2021, and directed the 2nd respondent to pay Rs.1,08,893/- being the arrears of gratuity and interest arrears calculated on and from 01.07.2015 till the date of payment for a sum of Rs.5,58,261/- at the rate of 10% per annum. Since the said order was not complied with by the 2nd respondent, the Controlling Authority on an application made by the petitioner, sent a communication dated 22.11.2021 to the District Collector, Dharmapuri, directing the latter to recover the difference in amount under the Revenue Recovery Act and remit the same to the Deputy Commissioner of Labour, Salem, by way of Demand Draft. According to the petitioner no action was taken on this by the District Collector. Hence this writ to give specific directions to the 1st respondent to recover the amount of Rs.1,08,893/- from the 2nd respondent.

3. Heard Mr.K.M. Ramesh, learned Senior Counsel, assisted



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by V. Subramani, learned counsel for the writ petitioner, Ms. C. Meera Arumugam, learned Additional Government Pleader for the 1st respondent and Mr.D.Chandrasekaran, learned Special Government Pleader, assisted by Mr.K.Raja, learned Standing Counsel for the 2nd respondent.

4. Though more than two years have elapsed the order of the Controlling Authority, has not been implemented in letter and spirit thereby causing avoidable financial hardship to the petitioner.

5. In such circumstances the 1st respondent is directed to implement the award within a period of 12 weeks from the date of receipt of a copy of this order after giving notice to the Tamil Nadu State Transport Corporation.

6. With the above observations, the Writ Petition is disposed of. No costs.

19.10.2023

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Index : yes/no

Speaking /Non speaking Order

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Dharmapuri Region, Bharathipuram
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R.HEMALATHA, J.

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