



W.P.No.2866 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

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

W.P.No.2866 of 2018

and

WMP.No.3537 of 2018

S.527, Kelamangalam Agricultural Producers
Cooperative Marketing Society Ltd.,
Rep. by its Managing Director,
Kelamangalam, Krishnagiri District.

...Petitioner

Vs.

1. The Authority under the Payment of Gratuity Act/
Assistant Commission of Labour,
Salem.

2. C.Sendrayan

...Respondents

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the order passed by the
1st respondent in P.G.No.290 of 2016 dated 7.12.2017, quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.G.Arul Murugan, for R2



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ORDER

WEB COPY This Writ petition has been filed seeking quashment of the order of the 1st respondent dated 07.12.2017 made in P.G.No.290 of 2016.

2. The case of the petitioner is that the 2nd respondent was appointed as Secretary in the petitioner Society and he had attained the superannuation on 31.03.2015. While so, during his tenure, the 2nd respondent had misappropriated a sum of Rs.9,96,432/- and there are also several other charges of temporary misappropriation against him. Therefore, the statutory enquiry under Section 81 of the Tamilnadu Co-operative Societies Act (in short 'Act') was ordered against the 2nd respondent and as the same is pending, the gratuity of the 2nd respondent was withheld by the petitioner-society. Further, pursuant to the order of this Court dated 07.09.2015 made in W.P.No.28065 of 2015, the revision petition filed by the 2nd respondent was dismissed by the Joint Registrar, vide order dated 22.12.2015. While such being the case, suppressing the same, the 2nd respondent filed a petition under Section 4 of the Payment of Gratuity Act, before the 1st respondent, claiming payment of gratuity of Rs.5,28,594/- and the 1st respondent, without considering any of the above said facts, passed an order dated



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07.12.2017, directing the petitioner-society to pay the gratuity amount of Rs.5,28,594/- to the 2nd respondent. Challenging the same, the present Writ petition is filed.

3. Heard learned counsel on either side and perused the materials available on record.

4. Though very many grounds have been raised by the learned counsel on either side at the time of arguments, however, when this Court expressed its opinion that, as against the order passed by the 1st respondent / Original Authority, there is an effective appeal remedy available before the Appellate authority under the Payment of Gratuity Act and without exhausting the said appeal remedy, straight away approaching this Court by way of filing this Writ petition is not sustainable, the learned counsel for the petitioner fairly restricted the prayer and sought permission of this Court, to file appropriate Appeal before the Appellate authority under the Payment of Gratuity Act as against the order dated 07.12.2017 passed by the 1st respondent. Learned counsel appearing for the 2nd respondent has not expressed any serious objection for the limited relief sought for by the



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learned counsel for the petitioner.

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5. In view of the aforesaid stand taken by the learned counsel for the petitioner, this Court, without interfering with the order under challenge, grants permission to the petitioner to file appropriate appeal before the Appellate authority under the Payment of Gratuity Act within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such appeal, the Appellate Authority shall consider the same on merits and in accordance with law and pass appropriate orders within a period of eight weeks thereafter, after affording an opportunity of personal hearing to the petitioner and the 2nd respondent.

6. With the above directions, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

25.08.2023

skt

Speaking Order : Yes/ No
Index : Yes/ No
NCC : Yes/ No

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