



WP.No.18390 of 2018

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18390 of 2018
and W.M.P.No.21700 of 2018

The Regional Manager,
Tamil Nadu Civil Supplies Corporation
No.567, Sipcot Complex,
Vengigal,
Thiruvannamalai-606 604.

...Petitioner

Vs

M.Paramasivam

...Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ or Direction, specifically Writ in the nature of Certiorari calling for the records relating to the order made in C.P.No.44 of 2017 dated 15.02.2018 on the file of the 2nd respondent/the Principal Labour Court, Vellore and quash the same.

For Petitioner : Mr.C.Selvaraj
For Respondent : Notice not ready



WP.No.18390 of 2018

ORDER

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Aggrieved by the impugned award of the Principal Labour Court, Vellore in C.P.No.44 of 2017, the petitioner is before this Court.

2. Though notice was ordered, till date, the petitioner has not taken any steps to serve notice on the petitioner. However, considering the pendency of the Writ Petition which is of the year 2018, this Court is inclined to dispose of the Writ Petition based on the materials available on record.

3. It is the case of the petitioner that the respondent was the employee of the petitioner corporation. On attaining superannuation, he retired from service on 30.06.2015, pursuant to which, he received a sum of Rs.6,61,812/- towards gratuity amount. Alleging non-disbursement of unearned leave salary to the tune of Rs.45,490/-, the respondent filed a computation petition under Section 33-C(2) of the Industrial Disputes Act, 1947 before the Principal Labour Court, Vellore in C.P.No.44 of 2017, wherein the Labour Court has passed an Award directing the petitioner



WP.No.18390 of 2018

corporation to pay a sum of Rs.45,490/- to the respondent towards unearned leave salary. Challenging the same, the petitioner has come up with this Writ Petition.

4. Learned Counsel for the petitioner corporation would submit that the respondent was issued with show cause notice by the petitioner corporation to recover the short out turn for which, the respondent has not given any reply. Further, the respondent himself has given consent in stamp paper to the effect that the unearned/earned leave salary can be adjusted towards the loss incurred to the exchequer. However, without considering the above facts, the Labour Court has mechanically passed an award in favour of the respondent for payment of the claim amount by the petitioner corporation which is not sustainable. Accordingly, he prays for allowing the Writ Petition.

5. This Court heard the learned counsel appearing for the petitioner corporation and perused the materials available on record.



WP.No.18390 of 2018

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Though the petitioner claims to have sent show cause notice to the respondent as to the recovery of short out turn, however, it is seen that even after a lapse of two years from the date of retirement, the petitioner corporation had neither taken any steps to recover the amount nor has initiated any disciplinary proceedings against the respondent with regard to the same which shows that the petitioner had failed to act diligently in recovering the amount. Mere issuance of show cause for recovery of short out turn cannot be the basis for withholding the retirement benefits of the respondent. Further, the case of the petitioner that consent has been obtained from the respondent for adjusting the earned leave salary towards the loss caused to the petitioner has not been established before the Labour Court. The above facts have been elaborately considered by the Labour Court and this Court does not find any perversity in the findings rendered by the Labour Court for allowing the computation petition filed by the respondent. Hence, the impugned award requires no interference and this Writ Petition deserves to be dismissed.



WP.No.18390 of 2018

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However, liberty is granted to the respondent to withdraw the award amount which has been deposited by the petitioner corporation. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition stands closed.

20.09.2023

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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WEB COPY



WP.No.18390 of 2018

M.DHANDAPANI, J

NHS

W.P.No.18390 of 2018
and W.M.P.No.21700 of 2018

20.09.2023