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W.P.No.8078 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM :

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

W.P.No.8078 of 2017

and

W.M.P.Nos.8840 & 16867 of 2017

The Head Mistress,
Corporation Higher Secondary School,
Perambur,
Chennai – 600 012.

... Petitioner

Vs.

- 1.The Secretary,
Education Department,
Government of Tamil Nadu,
Fort St.George,
Chennai – 600 009.
- 2.The Assistant Commissioner of Labour/
The Controlling Authority,
Under the Payment of Gratuity Act, 1972,
Chennai – 600 006.

3.Kuppammal

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records on the file of the 2nd respondent herein in P.G.No.28 of 2009 dated 24.07.2010 and the consequent order of the 2nd respondent vide D1/2580/2012 dated 29.10.2012 and quash the same as highly illegal.



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For Petitioner : Mr.S.Gopinathan
for Mrs.Karthika Ashok
For Respondents : Mr.M.S.Prem Kumar
Government Advocate [R1 & R2]
No appearance [R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records on the file of the second respondent herein in P.G.No.28 of 2009 dated 24.07.2010 and the consequent order of the second respondent vide D1/2580/2012 dated 29.10.2012 and quash the same as highly illegal.

2. The case of the petitioner is that, the third respondent is a temporary employee of the petitioner School. Earlier, she filed a claim petition under Section 33(c)(2) of the Industrial Disputes Act, 1947, in C.P.No.531 of 2005 and the same was dismissed on 22.07.2008. Aggrieved by the same, the third respondent filed a writ petition before this Court and the same was dismissed. Thereafter, the third respondent filed Gratuity application before the second respondent and the second respondent passed an *ex-parte* order in favour of the third respondent. Challenging the same, the above writ petition has been filed before this Court.



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3. The learned counsel for the petitioner submits that, the second respondent had passed an order without following the principles of natural justice, since there has been no notice for appearance of the petitioner, which is not sustainable. Accordingly, he prays for appropriate orders.

4. The learned Government Advocate appearing for the respondents 1 and 2 submits that, as against the order passed by the second respondent, there is an effective appeal remedy available before the appellate authority. Hence, he prays for dismissal of the above writ petition.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents 1 and 2 and perused the materials available on record.

6. As rightly pointed out by the learned Government Advocate appearing for the respondents 1 and 2, there is an effective appeal remedy available before the appellate authority as against the order passed by the second respondent. Hence, without exhausting the appeal remedy available under the statute, filing the present writ petition is not sustainable. Therefore, the prayer sought for by the petitioner cannot be acceded to and the writ petition is liable to be dismissed.



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M.DHANDAPANI, J.

sp

7. Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to workout the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

27.07.2023

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

To

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