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W.P.No.32553 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32553 of 2017

And

W.M.P.Nos.35884 of 2017 and 33075 of 2019

The HOD (Personnel and Admin)
Steel Authority of India Limit,
Salem Steel Plant,
Salem – 636 013.

... Petitioner

Vs.

1.The Appellate Authority
and Deputy Chief Labour Commissioner (Central),
No.4, Haddows Road,
Shastri Bhawan,
Chennai – 600 006.

2.The Controlling Authority
and Assistant Labour Commissioner (Central),
No.4, Haddows Road,
Shastri Bhawan,
Chennai – 600 006.

3.P.G.Anbanandam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the respondents 1
and 2 resulting in the impugned order of the first respondent in G.A.



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No.8 of 2016 dated 09.11.2017 confirming the order of the second respondent passed in G.A.No.68 of 2014 dated 16.09.2016 and quash the same.

For Petitioner : Mr.C.T.Mohan
Senior Counsel
for M/s.A.Ilango

For Respondents : Mr.A.Veeramani for R1 and R2
Mr.G.Pugazhenthir for R3

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the respondents 1 and 2 resulting in the impugned order of the first respondent in G.A.No.8 of 2016 dated 09.11.2017 confirming the order of the second respondent passed in G.A.No.68 of 2014 dated 16.09.2016 and to quash the same.

2.The case of the petitioner is that the third respondent while he was working as Senior Manager (Finance and Accounts) in the petitioner steel plant during the period from 20.06.2009 to 11.05.2011 prepared forged RTGS letters/ advises under the guise of releasing funds from Management Bank account in favour of the party with



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authorized signatory of himself and by forging the signature of the co-signatory without payment voucher and debited from Management Bank Account and credited into his account and in the accounts of one M.K.Natarajan and D.Sukumar, thereby mis-appropriated a sum of Rs.99,60,772/-. Hence, the third respondent was suspended from service vide order dated 11.05.2011 and disciplinary proceedings was initiated as against the third respondent and charge memo dated 28.05.2014 was issued to him. Subsequently, the third respondent retired from service on attaining the age of superannuation on 31.05.2014.

3.The further case of the petitioner is that after the third respondent retired from service disciplinary proceedings was continued in terms of Rule 30A of SAIL Conduct, Discipline and Appeal Rules, 1977 and after conclusion of disciplinary proceedings, the third respondent was dismissed from service on 03.07.2015. When the disciplinary proceedings was pending, the third respondent filed G.A.No.68 of 2014 before the second respondent claiming gratuity amount and the second respondent passed order dated 16.09.2016, directing the petitioner to pay a sum of Rs.10 Lakhs along with 10%



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simple interest as per Notification No.874(E) dated 01.10.1987 on the gratuity of Rs.10 Lakhs from when gratuity due till the date of payment. Aggrieved by the same, the petitioner preferred appeal in G.A.No.8 of 2016 before the first respondent and the first respondent vide order dated 09.11.2017 upheld the order dated 16.09.2016 passed by the second respondent. Challenging the same, the petitioner has filed this writ petition.

4.The learned Senior Counsel appearing for the petitioner submitted that as per Rule 30A of SAIL Conduct, Discipline and Appeal Rules, 1977, disciplinary proceedings, if instituted while the employee was in service, whether before his retirement or during his re-employment, shall, after the final retirement of the employee, be deemed to be proceeding and shall be continued and concluded by the Authority by which it was commenced in the same manner as if the employee had continued in service. However, the disciplinary proceedings has to be concluded within one year from the date of retirement.

5.The learned Senior Counsel appearing for the petitioner further



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submitted that in the present case, the third respondent retired from service on 31.05.2014 and after conclusion of disciplinary proceedings, the third respondent was dismissed from service on 03.07.2015. The delay in conclusion of disciplinary proceedings was caused since the third respondent filed W.P.No.18615 of 2014 before this Court on 14.07.2014 challenging the charge memo dated 28.05.2014 and obtained an order of interim stay on 15.07.2014 in M.P.No.1 of 2014 in W.P.No.18615 of 2014. Thereafter, on 07.01.2015, M.P.No.1 of 2014 in W.P.No.18615 of 2014 was dismissed by this Court. Hence, the period from 14.07.2014 to 07.01.2015 has to be excluded for calculation of one year period and if it is excluded, the termination order was issued to the third respondent well within the period of one year from the date of retirement.

6.The learned Senior Counsel appearing for the petitioner further submitted that apart from the disciplinary proceedings, the petitioner Management also initiated criminal proceedings as against the third respondent and the same ended in conviction, as against which, the third respondent preferred criminal appeal before this Court and the same is pending.



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7.The learned Senior Counsel appearing for the petitioner further submitted that as against the termination order, the third respondent has filed original application in O.A.No.111 of 2019 before the Central Administrative Tribunal and the same is pending adjudication. Further, as per Section 4 (6) of the Payment of Gratuity Act, the gratuity of an employee, whose services have been terminated for any act, wilful omission or negligence causing any damage or loss to, or destruction of, property belonging to the employer, shall be forfeited to the extent of the damage or loss so caused. However, without considering Section 4 (6) of the Payment of Gratuity Act, respondents 1 and 2 ordered for payment of gratuity, which is not sustainable.

8.The learned Senior Counsel appearing for the petitioner further fairly submitted that this Court may close this writ petition by observing that the impugned orders passed by the respondents 1 and 2 are subject to the result of O.A.No.111 of 2019 pending before the Central Administrative Tribunal. If the third respondent succeed in the original application, the petitioner will release the amount as ordered by the second respondent and confirmed by the first respondent.



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9.The learned counsel appearing for the third respondent raise no serious objection.

10.Heard the arguments advanced on either side and perused the materials available on record.

11.Considering the facts and circumstances of the case, this Court refrains itself from rendering any opinion on the merits of the case since rendering any opinion may adversely affect the interest of the petitioner as well as the private respondent before the Central Administrative Tribunal. This Court, without expressing any opinion on the merits of the case, is inclined to pass the following order:

(i)The order of the second respondent passed in G.A.No.68 of 2014 dated 16.09.2016 confirmed by the first respondent in G.A.No.8 of 2016 dated 09.11.2017 is subject to the result of O.A.No.111 of 2019 pending before the Central Administrative Tribunal.

(ii)If the third respondent workman succeed in the original application, the petitioner Management shall release the gratuity amount as ordered by the second respondent and confirmed by the first respondent.



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12.The writ petition is disposed of with the above observation.

No costs. Consequently, the connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

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