



W.P.(MD)No.1182 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:23.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1182 of 2023

and

W.M.P(MD)No.1088 of 2023

Q.837, Muhavoor Primary Agricultural
Cooperative Society Ltd.,
Rep. by its Secretary,
Muhavoor – 626 111,
Rajapalayam Taluk,
Virudhunagar District.

... Petitioner

Vs.

1.The Deputy Commissioner of Labour/
Controlling Authority under Payment
of Gratuity Act, 1972,
Madurai.

2.C.Panchangam

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent vide P.G.No.307/2019 dated 24.08.2022 and quash the same.



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For Petitioner

: Mr.D.Shanmugaraja Sethupathi

For R-1

: Mr.S.P.Maharajan,
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order passed by the first respondent in P.G.No.307/2019, dated 24.08.2022.

2. Since no adverse order is going to be passed, notice to the second respondent, is dispensed with.

3. The case of the petitioner is that the petitioner is a registered Society under the Tamil Nadu Cooperative Societies Act. The second respondent was working as a Senior Clerk in the petitioner Society. While he was in service, he misappropriated the society fund. Therefore, surcharge proceedings and criminal prosecution were initiated against him. While the matter stood thus, the second respondent submitted a letter of resignation and the same was not accepted. Hence, the petitioner filed a writ petition in W.P(MD)No.5577 of 2018. The said writ petition



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was allowed by directing the management to disburse the retirement benefits. Challenging the same, the management filed a review application in Review Application(MD)No.46 of 2018 and the same was allowed vide order, dated 10.10.2018 and the order passed in the writ petition was set aside. Consequently, the writ petition was restored and the same is still pending before this Court. In the meanwhile, the second respondent filed a claim petition before the first respondent seeking to disburse the gratuity. In spite of objection from the petitioner management, the first respondent allowed the claim petition by the impugned order, dated 24.08.2022. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

4. The learned Special Government Pleader appearing for the first respondent would submit that as against the order passed by the first respondent, there is an effective appeal remedy. Without exhausting the appeal remedy, the petitioner has filed this writ petition and hence, prayed for dismissal of this writ petition.



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5. In response, the learned counsel appearing for the petitioner would submit that the petitioner is ready to deposit 75% of the amount ordered by the original authority and therefore, this Court may grant liberty to the petitioner to file an appeal before the appellate authority and to raise all the issues including the jurisdictional issue which was raised before the original authority/first respondent.

6. Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent and perused the materials placed before this Court.

7. Considering the submissions of the learned counsel appearing for the petitioner, this Court, directs the petitioner to deposit 75% of the amount ordered by the first respondent, within a period of six weeks from the date of receipt of a copy of this order, before the first respondent, thereafter, file an appeal before the Appellate Authority, within a period of four weeks thereafter and raise all the grounds including jurisdictional issue. If any such appeal is filed by the petitioner,



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the Appellate Authority is directed to dispose of the same, on merits and in accordance with law, within a period of eight weeks thereafter.

8. This writ petition is disposed of in the above terms. No Costs.

Consequently, connected miscellaneous petition is closed.

9. Registry is directed to return the original impugned order to the petitioner, to enable them to file an appeal before the Appellate Authority.

23.01.2023

pm
NCC:Yes/No
Index:Yes/No

To

The Deputy Commissioner of Labour/
Controlling Authority under Payment
of Gratuity Act, 1972,
Madurai.



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M.DHANDAPANI,J.

pm

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