



W.P.(MD)No.11425 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11425 of 2019
W.M.P(MD).No.8691 of 2019

The Management,
O.1020 Tuticorin Co-operative Store,
Thoothukudi,
Rep.by its President,
Sankar Ganesh,
S/o.Shanmugam

... Petitioner

Vs.

1.A.Mohan

2.The Assistant Commissioner of Labour,
(Authority under the Payment of Gratuity Act),
Tirunelveli.

...Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the second respondent in P.G.No.2 of 2017 dated 26.02.2019 and quash the same as illegal.



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For Petitioner	: Mr.S.M.Mohan Gandhi
For R1	: Mr.A.Prasanna Rajadurai
For R2	: Ms.K.Christy Theboral Additional Government Pleader

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order passed by the second respondent in P.G.No.2 of 2017, dated 26.02.2019 and quash the same as illegal.

2. The case of the petitioner is that the petitioner Management appointed the first respondent as Peon in the year 1977 and the first respondent was terminated from service by order, dated 18.02.2011 passed by the Special Officer of the petitioner Management. Thereafter, the first respondent has filed a petition in P.G.No.2 of 2017 before the second respondent claiming the gratuity from the petitioner Management and the second respondent has passed the impugned order dated 26.02.2019 in favour of the first respondent. Challenging the same, the

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present writ petition has been filed.

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3. The learned counsel appearing for the petitioner would submit that the first respondent has made a request to the petitioner Management claiming his gratuity amount and the same was rejected on the ground that the first respondent was terminated for involving in the offence relating to moral turpitude committed during the course of his employment and his gratuity was forfeited in view of Section 6(b)(i) of Payment of Gratuity Act, 1972.

4. Per contra, the learned counsel appearing for the first respondent would submit that as against the impugned order passed by the second respondent, there is an efficacious alternative remedy available before the Appellate Authority in terms of Section 7(7) of the Payment of Gratuity Act.

5. In view of the submission made by the learned counsel appearing for the first respondent, instead of exhausting the alternative



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remedy available before the Appellate Authority, filing a writ petition under Article 226 of the Constitution of India is not sustainable one. However, liberty is granted to the petitioner Management to file an appeal before the Appellate Authority.

6. Accordingly, this Writ Petition is disposed of. No costs. Connected miscellaneous petition is closed.

02.02.2023

ssb
NCC:Yes/No
Index:Yes/No
Internet:Yes/No

To

The Assistant Commissioner of Labour,
(Authority under the Payment of Gratuity Act),
Tirunelveli.

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M.DHANDAPANI,J.

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