



W.P.(MD)No.11426 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11426 of 2019
W.M.P(MD).No.8692 of 2019

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

... Petitioner

Vs.

1.M.Arul Jothi

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.23 of 2016 dated 18.03.2019 and quash the same as illegal.



W.P.(MD)No.11426 of 2019

For Petitioner

: Mr.S.M.Mohan Gandhi

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.23 of 2016, dated 18.03.2019 and quash the same as illegal.

2. The case of the petitioner is that the petitioner Management has appointed the first respondent as Salesman in the year 1987 and the first respondent was terminated from service by order, dated 31.05.2007 passed by the Special Officer of the petitioner Management. Thereafter, the first respondent has filed a petition in P.G.No.23 of 2016 before the second respondent claiming gratuity from the petitioner Management and the second respondent has passed the impugned order, dated 18.03.2019 in favour of the first respondent. Challenging the same, the present writ petition has been filed.



W.P.(MD)No.11426 of 2019

WEB COPY

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 the moral turpitude committed during the course of his employment and his gratuity was forfeited in view of Section 6(b)(ii) of Payment of Gratuity Act, 1972.

4. Per contra, the learned Additional Government Pleader appearing for the second 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 Additional Government Pleader appearing for the second respondent, instead of exhausting the alternative remedy available before the Appellate



W.P.(MD)No.11426 of 2019

WEB COPY

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 also 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.

4/5



WEB COPY



W.P.(MD)No.11426 of 2019

M.DHANDAPANI,J.

ssb

W.P.(MD)No.11426 of 2019

02.02.2023