



W.P.(MD)No.11428 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.11428 of 2019
W.M.P(MD).No.8694 of 2019

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

... Petitioner

Vs.

1.P.Selvam

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.S.A.No.3 of



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2016 dated 25.03.2019 and quash the same as illegal.

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For Petitioner	: Mr.S.M.Mohan Gandhi
For R1	: Mr.M.Kubendran
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.S.A.No.3 of 2016 dated 25.03.2019 and quash the same as illegal.

2. The case of the petitioner is that the petitioner Management appointed the first respondent as Weighter and the first respondent was terminated from service by order, dated 20.09.2013 passed by the Special Officer of the petitioner Management. Thereafter, the first respondent has filed a petition in P.S.A.No.3 of 2016 before the second respondent claiming subsistence allowance and the second respondent has passed the impugned order dated 25.03.2019 in favour of the first respondent.



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Challenging the same, the present writ petition has been filed.

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3. The learned counsel appearing for the petitioner would submit that the first respondent was terminated from service for involving in the offence relating to moral turpitude committed during the course of his employment and the present impugned order passed by the second respondent is without the application of mind. Hence, the impugned order is liable to be set aside.

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 under the Tamil Nadu Payment of Subsistence Allowance Act.

5. In view of the submission made by the learned counsel appearing for the first respondent, instead of exhausting the alternative remedy available before the Appellate Authority, filing a writ petition



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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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