



W.P.(MD)No.12742 of 2020

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.12742 of 2020
W.M.P(MD).No.10889 of 2020

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

... Petitioner

Vs.

- 1.The District Collector,
Thoothukudi District,
Thoothukudi.
- 2.The Assistant Commissioner of Labour,
(Authority under the Payment of Gratuity Act),
Tirunelveli.

3.A.Mohan

... 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 of the second respondent in proceedings in Na.Ka.No.Aa2/5590/2019 dated 20.08.2020 and quash the same as



W.P.(MD)No.12742 of 2020

illegal.
WEB COPY

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondents : Ms.K.Christy Theboral
Additional Government Pleader
for R1 and R2
Mr.A.Prasanna Rajadurai for R3

ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order of the second respondent issued vide proceedings in Na.Ka.No.Aa2/5590/2019 dated 20.08.2020 and quash the same as illegal.

2. The case of the petitioner is that the third respondent was appointed as Peon in the petitioner Management and was terminated from service on 18.02.2011. Thereafter, the third respondent has filed a petition in P.G.No.2 of 2017 before the second respondent claiming gratuity from the petitioner Management. On 26.02.2019, the second respondent has allowed the said claim petition directing the petitioner



W.P.(MD)No.12742 of 2020

WEB COPY

Management to pay a sum of of Rs.92,769/- (Rupees Ninety Two Thousand Seven Hundred Sixty Nine only) to the third respondent with interest of 10% per annum. Aggrieved by the same, the Management filed a writ petition before this Court in W.P(MD).No.11425 of 2019. During the pendency of the said writ petition, the second respondent has issued a Certificate on 20.08.2020 to the first respondent to recover the gratuity amount of of Rs.92,769/- (Rupees Ninety Two Thousand Seven Hundred Sixty Nine only) with interest of 10% per annum from the petitioner Management under the Revenue Recovery Act. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that this Court while disposing of the writ petition in W.P(MD).No.11425 of 2019 has granted liberty to the petitioner to file an appeal before the Appellate Authority. Hence, when the petitioner has right to file an appeal before the Appellate Authority, issuing the Certificate for recovery of the gratuity amount of Rs.92,769/- (Rupees Ninety Two Thousand Seven Hundred Sixty Nine only) from the petitioner Management is not



W.P.(MD)No.12742 of 2020

sustainable one. Hence, he prays for passing appropriate orders.

WEB COPY

4. The learned counsel appearing for the third respondent would submit that this Court may stay the impugned order for a period of six weeks so as to enable the petitioner Management to exhaust the appeal remedy before the Appellate Authority.

5. Admittedly, the petitioner Management has filed a writ petition in W.P(MD).No.11425 of 2019, as against the award passed in P.G.No.2 of 2017 filed by the third respondent. However, during the pendency of the said writ petition, the impugned order has been passed by the second respondent. This Court, while disposing of the said writ petition in W.P(MD).No.11425 of 2019, has granted liberty to the petitioner to file an appeal before the Appellate Authority. Hence, the impugned order passed by the second respondent in Na.Ka.No.Aa2/5590/2019 dated 20.08.2020, is stayed for a period of six weeks from the date of receipt of a copy of this order so as to enable the petitioner Management to file an appeal before the Appellate Authority



W.P.(MD)No.12742 of 2020

as stated in W.P(MD).No.11425 of 2019.

WEB COPY

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

1.The District Collector,
Thoothukudi District,
Thoothukudi.

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

5/6



WEB COPY



W.P.(MD)No.12742 of 2020

M.DHANDAPANI,J.

ssb

W.P.(MD)No.12742 of 2020

02.02.2023