

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD).No.2660 of 2018
W.M.P(MD).No.2843 of 2018

National Textile Corporation Limited,
Represented through its General Manager,
Southern Regional Office,
NTC House, Post Box No.2409,
35-B, Somasundaram Mills Road,
Coimbatore-9.

... Petitioner

Vs.

1.The Controlling Authority,
Under the Payment of Gratuity Act, 1972 and
Regional Labour Commissioner (Central),
Kanaga Apartments, Suite No.III, I Floor,
13-A, Lady Doak College Road,
Chinna Chokkikulam,
Madurai-625 002.

2.N.Karuthakannan

... 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 order passed by the first respondent in 48/154/2015-R/M dated 28.04.2017 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondents : No-appearance for R1
Mr.T.Ravichandran for R2

ORDER

This Writ Petition has been filed to call for the records pertaining to the order passed by the first respondent in 48/154/2015-R/M dated 28.04.2017 and quash the same.

2. The case of the petitioner is that the second respondent has joined the service of the petitioner Mill at Periyakulam Show Room on 03.08.1976 and he was terminated from service vide order dated 28.03.1984. As against the order of termination, the second respondent has raised an Industrial Dispute in I.D.No.84 of 2000 before the Labour Court and the Labour Court vide order dated 07.02.2011 has set aside the order of termination and directed the petitioner Mill to pay the terminal benefits and other eligible dues, if any, to the second respondent within a period of three months from the date of receipt of the order. However, Periyakulam N.T.C.Mill and the attached showroom were closed as early

as on 31.01.1998 and hence, the petitioner Mill is not aware of the award of the Labour Court. Though the second respondent was entitled to get the gratuity up to 31.01.1988 only, the petitioner Mill has paid the gratuity up to his date of retirement (i.e.,) 03.10.2007 by mistake. He was paid the gratuity amount of Rs.61,440.85/- (Rupees Sixty One Thousand Four Hundred and Forty Eighty Five Paise only) on 18.11.2016 through cheque. However, the second respondent has made an application before the first respondent for payment of gratuity along with interest. Without considering the factual aspects, the Controlling Authority has, vide the impugned notice dated 28.04.2017, directed the petitioner Mill to pay the interest @ 10% per annum from the very next date of superannuation (i.e.,) 03.10.2007, till the date of amount of gratuity has been paid within a period of 30 days from the date of receipt of the impugned notice. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the second respondent was terminated from service on 28.03.1984 and the Petitioner Mill was closed as early as on 31.01.1998,

the petitioner has paid the entire gratuity amount to the second respondent. Admittedly, the second respondent is entitled to receive the gratuity till the date of closure of the Mill, however, he was paid excess amount of gratuity till the date of his retirement. Without considering the same, the first respondent has directed the petitioner to pay interest @ 10% per annum from the very next date of superannuation (i.e.,) 03.10.2007, till the date of amount of gratuity has been paid, which is not sustainable one. Hence, he prays for passing appropriate orders.

4. The learned counsel appearing for the second respondent would submit that admittedly, the second respondent is entitled to get interest as per the Payment of the Gratuity Act from the date of superannuation till the date of payment of the gratuity. Hence, the order of the first respondent cannot be interfered with by this Court.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.

6. Admittedly, the second respondent joined the service of the petitioner Mill on 03.08.1976 and he was terminated from service on 28.03.1984, as against which, he raised an Industrial Dispute before the Labour Court in I.D.No.84 of 2000. The Labour Court vide order dated 07.02.2011 has set aside the order of termination and directed the petitioner Mill to pay the terminal benefits and other eligible dues, if any, to the second respondent within a period of three months from the date of receipt of the order. Thereafter, the second respondent has filed G.A.No.154 of 2015 before the first respondent claiming the gratuity along with interest and the first respondent, considering the facts and circumstances of the case, directed the petitioner Mill to pay simple interest @ 10% per annum from the very next date of superannuation (i.e.,) 03.10.2007, till the date of payment of the gratuity within a period of 30 days from the date of receipt of the notice. Though the petitioner Mill claims that the second respondent is entitled to get the gratuity till the date of closure of Mill and is not entitled to get interest, as per the Payment of Gratuity Act, 1972, the second respondent is entitled to get the gratuity with interest from the date of superannuation (i.e.,)

03.10.2007, till the date of payment of gratuity. The Controlling Authority by exercising the discretionary power, has directed the petitioner Mill to pay simple interest @ 10% per annum from the very next date of superannuation (i.e.,) 03.10.2007, till the date of payment of the gratuity, which cannot be interfered with by this Court. Hence, the prayer sought for in the present Writ Petition cannot be granted.

7. Accordingly, this Writ Petition is dismissed. No costs. Connected miscellaneous petition is closed.

06.02.2023

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

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