



W.P.(MD)No.6806 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6806 of 2018

and

W.M.P.(MD)No.6517 of 2018

The Managing Director,
The Thanjavur Consumers Co-operative
Wholesale Stores T-878,
Thanjavur,
Thanjavur District.

... Petitioner

Vs.

1. T.Rajamanickam
2. The Joint Commissioner of Labour,
Tiruchirappalli,
Tiruchirappalli District.
3. The Assistant Commissioner of Labour,
Tiruchirappalli,
Tiruchirappalli District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to quash the order passed in P.G.A.No.102 of 2016 on the file of the second respondent filed against the order passed in P.G.No.339 of 2016 dated 14.10.2016 by calling for the records from the second respondent and consequently, direct the third respondent to refund the amount deposited by the petitioner establishment.

For Petitioner : Mr.V.Chandrasekar

For Respondents : No appearance for R1
Mr.G.V.Vairam Santhosh
Addl. Govt. Pleader for R2 and R3

ORDER

This Writ Petition has been filed to call for the records relating to the order passed in P.G.A.No.102 of 2016 by the second respondent filed against the order passed in P.G.No.339 of 2016 dated 14.10.2016 and direct the third respondent to refund the amount deposited by the petitioner establishment.

2. The case of the petitioner is that the first respondent made a petition before the third respondent under Section 4 of the Payment of



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Gratuity Act, 1972 claiming gratuity in P.G.P.No.339 of 2016 and the third respondent has passed an order, directing the petitioner to pay the gratuity amount of Rs.50,206/- to the first respondent, as against which, the petitioner has filed an appeal before the second respondent / Appellate Authority and the Appellate Authority also confirmed the order. As against the concurrent findings, the petitioner has filed the present Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner has filed the Writ Petition only on the ground that the first respondent was terminated from service for misappropriation of funds, as against which, the first respondent preferred revision under Section 153 and the revisional authority has confirmed the order of termination issued by the petitioner. However, the third respondent without taking into consideration the fact that the dismissed employee is not entitled to get the gratuity, has allowed the application filed by the first respondent and the second respondent has also confirmed the order passed by the third respondent. Hence, he prayed for appropriate orders.



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4. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

5. The facts in the present case not in dispute. Admittedly, the first respondent has made a petition before the third respondent claiming gratuity and the third respondent, vide order dated 14.10.2016, has passed an order directing the petitioner to pay a sum of Rs.50,206/- with interest of 10% per annum. Aggrieved over the same, the petitioner has preferred an appeal before the second respondent and the second respondent, after considering all the facts and circumstances, has confirmed the order passed by the third respondent. Since the issue raised in the present Writ Petition has already been decided by the Controlling Authority as well as the Appellate Authority, unless the petitioner is able to prove the fact that the first respondent is not entitled to get the gratuity, this Court cannot interfere with the well-considered decision of the Controlling Authority as well as the Appellate Authority.



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6. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

01.03.2023

NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

1. The Joint Commissioner of Labour,
Tiruchirappalli,
Tiruchirappalli District.
2. The Assistant Commissioner of Labour,
Tiruchirappalli,
Tiruchirappalli District.
3. The Managing Director,
The Thanjavur Consumers Co-operative
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