



WMP.Nos.20766 & 20767 of 2024
in WP.No.6753 of 2023

N.ANAND VENKATESH. J.,

These writ miscellaneous petitions have been filed by the respondents seeking for clarification of the order dated 25.04.2024 made in WMP No.9120 of 2024 and for extension of time to comply with the order passed in WMP No.9120 of 2024 dated 25.04.2024.

2.When the matter came up for hearing on 23.08.2024, this Court passed the following order:

Learned counsel for petitioner brought to the notice of this Court the order passed in W.M.P.No.9120 of 2024 in W.P.No.6753 of 2023, dated 25.04.2024. This petition was filed by the respondents seeking to modify the order passed in W.P.No.6753 of 2023, dated 07.03.2023. The said petition was dismissed by an order dated 25.04.2024 and the relevant portion is extracted hereunder:

"9. Accordingly, W.M.P.No.9120 of 2024 is dismissed. It is for the respondents, to raise the funds. The respondents are all also Government Servants. They are duly receiving the salary. The services of the petitioner and the other employees of the Municipality are not different from theirs. When years together, the terminal benefits are not paid, it is for the respondents



to blame themselves that they did not take a minute to emphatically look into the case of the employees not of the petitioner. It is not suddenly today that the amount is claimed. For the past several years, the respondents have not raised their little finger to alleviate the grievances of the similar employees who worked and retired in the Pondicherry Municipality.

10. In that view of the matter, W.M.P.No.9120 of 2024 is dismissed. One last opportunity is granted to report compliance of the order dated 07.03.2023 by 04.06.2024. It is made clear that if the order is not complied with, this Court will further proceed with the Contempt Petition by issuing Statutory Notice."

2. In the light of the above order, unless the respondents comply with the direction issued by this Court, this Court will not permit the respondents to argue the main writ petition. Post this case under the same caption on 30.08.2024.

3. When the above order was passed, this Court took into consideration the order that was passed in the modification petition filed by the respondents in WMP No.9120 of 2024.

4. The clarification petition has been filed mainly on the ground that the respondents even while filing the modification petition had taken a stand at paragraph No.9 that the petitioner had stood as a surety for three loans that was



received from PADCO and those loan amounts were not repaid back by the principal borrower. Hence, a request was received from PADCO to set-off the amount that is due and payable to the petitioner towards retirement benefits. This issue was not specifically considered while disposing of the modification petition. Therefore, the respondents were not able to comply with the order passed in the modification petition on 25.04.2024.

4.In the considered view of this Court, even on a demurrer, if this Court is to hold that the writ petitioner in his capacity as the surety is liable to repay back the entire loan amount, that does not mean that the entire retirement benefits that is due and payable to the petitioner can be set-off towards all the three loan amounts for which the petitioner stood as surety. At the best, the amount that is due and payable to the petitioner towards the gratuity alone can be utilised for the purpose of adjusting towards the loan amount. In any case, this Court does not want to get into this issue for the present.

5.The writ petitioner has retired from service in the year 2022 and he is yet to see the colour of the coin. The amount that is due and payable to the petitioner towards gratuity works out to Rs.15,94,131/-. This amount can be kept in abeyance for the present. All the other amounts/retirement benefits that are due and payable to the petitioner towards commutation of pension, encashment of earned leave,



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provident fund contribution etc., can be settled to the petitioner. The interest that is payable can also be worked out at the time of the final disposal of the writ petition.

6.In view of the above, both these writ miscellaneous petitions are disposed of with a direction to the 3rd respondent in the writ petition, to settle the entire retiral benefits to the petitioner excluding the amount payable towards gratuity. This settlement shall take place within a period of **four weeks** from today.

7.The above order will balance the rights of both the parties and atleast the petitioner will be able to see the colour of the coin after this order is passed.

Both WMP.Nos.20766 and 20767 of 2024, are disposed of in the above terms.

05.09.2024

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