



W.P.Nos.30858 of 2024 etc

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.30858, 30862, 30864, 30866 & 30867 of 2024

W.P.No.30858 of 2024

Mrs.D.J.Hani Mary Sheniha

... Petitioner

Vs.

- 1.The District Collector,
District Collectorate Campus,
Chengalpet District,
Chengalpet.
- 2.The District Collector,
District Collectorate Campus,
Kancheepuram District,
Kancheepuram.
- 3.The Deputy Commissioner of Labour (I/C),
O/o. The Joint Commissioner of Labour II,
The Controlling Authority under the Gratuity Act,
II Floor, DMS Complex,
Anna Salai,
Chennai - 06.



W.P.Nos.30858 of 2024 etc

4.The Chairman and the Managing Trustee,
JEPPIAAR SRR Engineering College
(Formerly SRR Engineering College)
run by Sivaraja Ramalingam Trust,
Old Mamallapuram Road,
Padur, Kanchipuram District - 603 103.

also at

Regd Office : No.29, Ganapathy Street,
Royapettah, Chennai 600 014.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to consider the representation of the petitioner dated 01.08.2024 by taking further actions against the fourth respondent to recover the gratuity amount payable to the petitioner along with 15% compound interest from the date on which it becomes due till the date of realization as per law based on the Certificate of Recovery dated 03.06.2024 vide proceedings No.D1/3192/24 issued by the third respondent.

For Petitioner : Mr.A.Ganapatheeswaran

For respondents : Mrs.M.Jayanthi, AGP for R1 to R3

COMMON ORDER

These Writ Petitions have been filed to direct the first respondent to consider the representation of the petitioners to recover the gratuity



W.P.Nos.30858 of 2024 etc

amount payable to the petitioners from the fourth respondent along with 15% compound interest from the date on which it becomes due till the date of realization as per law based on the Certificate of Recovery dated 03.06.2024 issued by the third respondent.

2. Heard Mr.A.Ganapatheeswaran, learned counsel for the petitioners and Mrs.M.Jayanthi, learned Additional Government Pleader appearing for the respondents 1 to 3 in all the Writ Petitions and perused the materials available on record.

3. The petitioners are the erstwhile staff of the fourth respondent Institution. After relieving from service, the petitioners have requested the fourth respondent to pay the gratuity amount payable to them. As there was no response evoked from the fourth respondent, the petitioners have approached the third respondent under Payment of Gratuity Act seeking direction to the fourth respondent to pay the gratuity amount payable to them along with interest. The third respondent has passed an order on 26.10.2023 in PGA.No.174 of 2022, directing the fourth respondent to



W.P.Nos.30858 of 2024 etc

pay the gratuity amount to the petitioners along with 10% interest.

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3.1. Despite the petitioners sent a representation to the fourth respondent along with the order of the third respondent, the fourth respondent did not come forward to pay the gratuity amount along with interest. Thereafter, the petitioners have again approached the third respondent by filing Form -T and prayed to issue a certificate of recovery against the fourth respondent. After issuing show cause, the fourth respondent has issued certificate of recovery addressed to the second respondent to collect the gratuity amount payable along with 15% compound interest. The same was later transferred to the file of the first respondent on the point of territorial jurisdiction. But, the first respondent till date, neither considered the representation of the petitioners nor passed any orders for recovery of the gratuity amount. Hence, the petitioners are before this Court.



W.P.Nos.30858 of 2024 etc

WEB COPY

4. The learned counsel for the petitioners submitted that there is an order of this Court passed in ***W.P.No.15515 of 2020 (S.Ponnusamy Vs. The District Collector, Salem and Others)***, dated 09.11.2020, wherein, this Court directed the Collector and Tahsildar / respondents 1 and 2 therein, to take effective steps to recover the amount payable in terms of the certificate issued by the Controlling Authority. The relevant paragraphs of the said judgment are extracted hereunder:

"8. As has been rightly pointed out by the learned counsel for the petitioner, though the Labour Commissioner has sent a communication in Na.Ka.No.B4/3790/2019 dated 03.02.2020 to the first respondent District Collector for invocation of the provisions under Revenue Recovery Act for recovery of a sum of Rs.1,51,740/- towards the remaining balance of the gratuity payable to the petitioner from the third respondent, the said request since have not been considered, rightly the petitioner has approached this Court, therefore, by taking into account the present stand taken by the first and second respondents, as projected by the learned Government Advocate appearing for them, this Court feel that, this writ petition can be disposed of



W.P.Nos.30858 of 2024 etc

passed an order in another Writ Petition in ***W.P.No.9197 of 2021 (M.Ramesh Vs. The District Collector, Dharmapuri and Others)***, dated ***15.04.2021***, on similar lines. The relevant paragraphs in the said judgment are reproduced hereunder:

"5. In fine, this Writ Petition is disposed of, with a direction to the Respondents 1 and 2, namely, District Collector and Tahsildar respectively to recover the amount, within a period of 60 days from the date of receipt of a copy of this order and pay it to the Workman.

6. It is made clear that in case they fail to comply with the order, Government is empowered to take action, invoking the relevant Conduct Rules for dereliction of their duty, which is unbecoming of a member of the service and such irresponsible Officials should be dismissed from service. Before initiating action and dismissing from service, they must be transferred to a non-sensitive post and their dereliction should be entered into their Service Records within three months from the date of their disobedience, so that their promotions and other terminal benefits can



W.P.Nos.30858 of 2024 etc

be deprived. Before depriving the gratuity, an opportunity must be given to the person concerned, who are involved in the act of moral turpitude, as otherwise, there is every possibility of getting their benefits on the technical ground of violation of principles of natural justice.

7. Whenever an application for recovery is made, the Deputy Commissioner of Labour or the Authority under the Workmen-s Compensation Act, 1923 is expected to issue a certificate for recovery of the amount within a period of 60 days from the date of such request made by the person concerned / employees or by the Dependants, duly intimating the Collector and Tahsildar, if there are no legal impediments. On receipt of such intimation / certificate, the Collector and Tahsildar shall comply with the statutory requirements, attach properties and comply with the certificate as demanded by the Deputy Commissioner of Labour within a period of 90 days from the date of receipt of the certificate.

8. After taking orders from the Hon-ble Chief



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W.P.Nos.30858 of 2024 etc

Justice, Registry is directed to forward this order to the Secretary to Government of Tamil Nadu, Labour and Employment, who shall, in turn forward it to the Commissioner of Labour and other Authorities, dealing with cases under the provisions of the Payment of Gratuity Act 1972, the Workmen-s Compensation Act, 1923, Tamil Nadu Payment of Subsistence Allowance Act, 1981 and the like, to follow the directions issued in Paragraphs Nos.6 & 7 of this order herein~above to avoid delay. No costs."

6. The matter in issue is also similar to the earlier Writ Petitions filed in ***W.P.No.15515 of 2020, dated 09.11.2020 and W.P.No.9197 of 2021 dated 15.04.2021.*** Since the petitioners in these Writ Petitions are also similarly placed, their cases should also be appreciated on the similar lines of consideration in the above Writ Petitions. Hence, I hold that the petitioners are also entitled to the same relief as already granted to the petitioners in the above Writ Petitions.

7. Accordingly, these Writ Petitions are disposed and the first



W.P.Nos.30858 of 2024 etc

WEB COPY

respondent is directed to consider the representations of the petitioners and pass orders to recover the gratuity amount payable to the petitioners from the fourth respondent as per the certificate of recovery dated 03.06.2024 issued by the third respondent. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. No costs.

23.10.2024

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

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W.P.Nos.30858 of 2024 etc

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