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W.P.No.36537 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.36537 of 2024

D.E.Paramasivam

... Petitioner

Vs

1. The District Collector,
Office of the District Collector,
Tiruvallur District – 601 205.
2. The Deputy Commissioner of Labour,
Authority under the Payment of Gratuity Act,
Office of the Joint Commissioner of the Labour II,
Chennai – 600 006.
3. The President,
Panapakkam Panchayat,
Ponneri Taluk,
Minjur Post,
Tiruvallur District – 601 205.
4. The Block Development Officer,
Minjur Panchayat Union,
Ponneri Taluk,
Minjur Post,
Tiruvallur District – 601 205.

... Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the first respondent to recover the amount of Rs. 86,769/- with 15% compound interest from the third respondent under the Revenue Recovery Act and deposit in to the credit of P.G.No. 257/2019 on the file of the second respondent Deputy Commissioner of Labour (Authority under the Payment of Gratuity Act) and further directed to pay the said amount to the petitioner and issue such further or other appropriate orders or directions as this Court may deem fit.

For Petitioner	: Mr.R.Suriya
For R1 & R2	: Mr.K.Surendran, Additional Government Pleader
For R3 & R4	: Mr.K.Suresh Government Advocate

ORDER

This writ petition is filed for a mandamus directing the first respondent to recover the amount of Rs.86,769/- with further compound interest at the rate of 15% per annum and pay the same to the petitioner.

2. The case of the petitioner is that he was working as an overhead tank operator and retired from service upon attaining the age of superannuation



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with effect from 18.03.2019. His last drawn salary was Rs. 4,700/-. Since no gratuity was paid to him in respect of his service, he made an application before the Controlling Authority under the Payment of Gratuity Act, 1972 which was taken on file as P.G.Case No. 257 of 2022 and by order dated 18.10.2023, his application was allowed directing the third respondent-Panchayat and the Fourth respondent-Block Development Officer to pay the gratuity amount of Rs.86,769/- with further interest at the rate of 10% per annum. The same is not paid and therefore, he made an application for recovery of the amount under Section 8 of the Payment of Gratuity Act, 1972 and Rule 19 of the Tamil Nadu Payment of Gratuity Rules, 1973 to the appropriate authority. Thereafter, the appropriate authority passed an order on 04.03.2024, directing the first respondent namely, the Collector of Thiruvallur, to recover the amount from the defaulting management with 15% compound interest.

3. The appropriate authority, after considering the notification under Section 8 of the Central Government issued in S.No. 1032(E) and published in Extraordinary Gazette dated 01.12.1987, whereby the Central Government



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fixed compound interest at the rate of 15% per annum, issued a recovery certificate stating that the amount to be recovered along with compound interest at the rate of 15% per annum. In spite of the same, the statutory direction has not been complied with by the respondents and hence the writ petition.

4. The learned Government Advocate appearing on behalf of the first and second respondents would submit that gratuity has to be paid by the concerned Panchayat.

5. The learned counsel appearing on behalf of the third respondent Panchayat would submit that as a matter of fact, the overhead tank operator works only 4 hours a day. One of the overhead tank operators, by name K.Gunasekaran had filed C.P.No. 5 of 2020 and the third Additional Labour Court had rejected the claim that since the overhead tank operator works only for 4 hours a day, the payment of Gratuity Act, 1972 would not be applicable to the overhead tank operators.



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6. I have considered the rival submissions made on either side and perused the material records of the case.

7. The learned counsel appearing on behalf of third respondent Panchayat is relying on a decision made in the case of some other employee. As far as the petitioner is concerned, he has approached appropriate authority under the Payment of Gratuity Act and his application was allowed in the year 2023 and the same is not challenged by the third respondent Panchayat or the fourth respondent Block Development Officer till date and the order has become final.

8. As a matter of fact, subsequent application for enforcement of the award has also been made and the same was also ordered on 04.03.2024. Therefore, when the order of statutory authority has become final, the third and fourth respondents have no other option than to comply with the same. The first respondent is bound by the statutory order of the Deputy Commissioner of Labour which was passed under the Act and the rules to recover the said amount and pay it to the workman. As per the original award,



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the sum of Rs. 86,769/- was directed to be paid with simple interest at the rate of 10% per annum. Once again, the workman approached the authority under Section 8 of the Payment of Gratuity Act read with Rule 19 of the Tamil Nadu Payment of Gratuity Rule, 1973. In exercise of the said powers under the rules, it was ordered that the said amount shall be recovered further with 15% compound interest. The same has not been complied with by the first respondent till date. When a recovery certificate is granted by the statutory authority, the first respondent must duly comply with the same and recover the amount due as per Section 8 of the Payment of Gratuity Act, as arrears of land revenue.

9. Therefore, this writ petition is allowed on the following terms:-

(i) The first respondent is directed to recover the amount as certified by the authority in its recovery certificate dated 04.03.2024, by initiating appropriate proceedings under the Revenue Recovery Act from the third and fourth respondents and pay it out to the workman directly by way of cheque or demand draft within a period of two months from the date of production/receipt of the website uploaded copy of this



order, without waiting for the certified copy of the order.

(ii) It is seen that the defaulting management is the Panchayat and the Block Development Officer, who are also the subordinate authorities of the first respondent. The first respondent is the Inspector of Panchayats under the concerned statue. Therefore, apart from the Revenue Recovery Act, he can make use of his powers in that capacity to direct the third and fourth respondents to immediately comply with the statutory order passed under the Payment of Gratuity Act, 1972.

(iii) No costs.

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Neutral Citation: Yes
nsl



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