



W.P.(MD)No.2874 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

WEB COPY

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.2874 of 2019

Karuppaganaiyar

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Controlling Authority,
Under Payment of Gratuity Act/
Assistant Commissioner of Labour,
Bharathi Ula Road, K.Pudur,
Madurai No.8.

3.The Executive Officer,
Arulmigu Mayuranathaswamy Thirukoil,
Pethavanallur,
Rajapalayam.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents particularly the second respondent to disburse the amount which lies to the credit of P.G.No. 307/16 on the file of the second respondent and to initiated revenue recovery proceedings through the first respondent against the third respondent to collect interest for the gratuity amount as fixed by the second respondent till the date of payment and disburse the same to the petitioner within time stipulated by this Court.



WEB COPY



W.P.(MD)No.2874 of 2017

For Petitioner : Mr.S.Venkatesh
For R1 & R2 : Mr.P.Thambidurai
Government Advocate
For R3 : Mr.P.Mahendran

ORDER

This writ petition has been filed seeking a writ of mandamus directing the second respondent to disburse the amount which lies to the credit of P.G.No.307/16 on the file of the second respondent and to initiate revenue recovery proceedings through the first respondent against the third respondent to collect the interest for the gratuity amount fixed by the second respondent till the date of payment and disburse the same to the petitioner within time stipulated by this Court.

2.The petitioner was appointed in the third respondent Office and retired from service on attaining the age of superannuation. Since the gratuity amount of the petitioner was not settled to the petitioner, he filed P.G.No.307 of 2016 before the second respondent. The second respondent by an order dated 29.11.2017 had calculated the gratuity payable to the petitioner and directed the third respondent to disburse the same to the petitioner with 10% interest within a period of 30 days from the date of receipt of that order. However, the third respondent has not paid the said amount. Hence, the petitioner has filed this writ petition.



WEB COPY

3.The learned counsel for the petitioner submits that the second respondent passed an order quantifying the gratuity amount at Rs.1,39,085/-. The said gratuity amount was paid by the third respondent only on 04.12.2020. According to the petitioner, the second respondent had directed the third respondent to pay the gratuity amount along with 10% interest from 31.10.2007 till the date of disbursal. As per the statutory rate of interest 10%, the interest amount would come around Rs.1,32,045/- till the date of disbursal that is on 04.12.2020. However, no interest was paid to the petitioner. Therefore, he seeks to initiate recovery proceedings against the third respondent for payment of interest.

4.The learned counsel for the third respondent would submit that as per the audit objection made when the petitioner was in service, the petitioner is liable to pay a sum of Rs.24,340/-. If the petitioner is ready to pay the same or if the petitioner accedes to deduct the said amount from the interest to be paid to the petitioner, the third respondent is ready to pay the interest within the period stipulated by this Court.

5.Responding to the above submission, the learned counsel for the petitioner submits that the third respondent has not even make such claim while



the petitioner was in service and they have not initiated any proceedings for such claim. He further submits that even assuming that the claim of the third respondent is genuine, the said claim is now barred by limitation as the cause of action has been arisen before 31.10.2007.

6.I have given my careful consideration to the submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7.It appears that the gratuity was paid by the third respondent to the petitioner on 04.12.2020 and the third respondent is liable to pay the interest from 31.10.2007 to 04.12.2020. As per the statutory rate of interest, the amount payable by the third respondent towards interest comes around Rs.1,32,049/-. The third respondent also accepts the same and seeks some time to disburse the said amount. However, he sought for deduction of the amount towards audit objection, which was made while the petitioner was in service.

8.It is admitted that for the purpose of making any claim towards audit objection as claimed by the third respondent, no notice was served and no legal proceedings was initiated to recover the said amount. when the petitioner was in service. The audit objection is pertaining to the year of almost 17 years before.



W.P.(MD)No.2874 of 2024

The third respondent should have initiated revenue recovery proceedings within a period of three years from the date of audit objection. Certainly, no proceedings were initiated to recover the said amount with the said statutory period and the claim now made by the third respondent is clearly barred by limitation. Therefore, the contentions raised by the petitioner that the third respondent cannot make any recovery for the alleged audit objection and the third respondent is liable to pay a sum of Rs.1,39,049/- towards interest, are in conformity under the Law.

9.Hence, the third respondent is directed to pay a sum of Rs.1,39,049/- towards interest for the belated payment of gratuity, to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order. It is made clear that if the third respondent fails to pay the said amount within the period stipulated above, the third respondent is liable and accordingly directed to pay the said amount at the rate of 18% interest from 04.12.2020 till the date of disbursal. It is needless to add here that if any order is passed with regard to the audit objection based on the available materials, the same shall be brought to the knowledge of the Court by way of appropriate proceedings.

10.With the above observations, this writ petition stands allowed. no costs.

12.11.2024

Index:yes/no
Internet:yes/no
ta

<https://www.mhc.tn.gov.in/judis>



WEB COPY

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Controlling Authority,
Under Payment of Gratuity Act/
Assistant Commissioner of Labour,
Bharathi Ula Road, K.Pudur,
Madurai No.8.



W.P.(MD)No.2874 of 2017



WEB COPY



W.P.(MD)No.2874 of 2019

KRISHNAN RAMASAMY, J.

ta

W.P.(MD)No.2874 of 2019

12.11.2024