



WP(MD)No.6213 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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and
WMP(MD)No.4914 of 2017

The Executive Engineer,
Tamil Nadu Police Housing Corporation,
Old Police Hospital,
Old Control Room,
Shamathanapuram,
Palayamkottai,
Tirunelveli.

: Petitioner

Vs.

1.The Commissioner for Employees' Compensation,
Deputy Commissioner of Labour,
Tirunelveli.

2.Malathi

3.Minor Pechi Latchumi

4.Minor Bala Nambi

5.Nagoor Maideen

: Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in Aa1/595/2017 (WC 73/12) dated 10.03.2017, quash the same and consequently, directing the first respondent to take the returned and unnumbered interlocutory application in WC.No.73 of 2012 on his file and dispose of the same on merits and in accordance with law, within a stipulated time limit.

For Petitioner : Mr.Aayiram K.Selvakumar

For Respondents: Mr.A.Baskaran,
Additional Government Pleader for R.1

Mr.T.Selvan for R.2 to R.4

Mr.V.Kannan for R.5

ORDER

The Executive Engineer of Tamil Nadu Police Housing Corporation, Tirunelveli, has been slapped with an *ex-parte* award by the first respondent dated 03.11.2016. The application filed by the Executive Engineer to set aside the *ex-parte* award was returned, with a direction to



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deposit the award amount of Rs.6,56,967/-, failing which, action would be taken to deposit the award amount together with interest @ 12% from the date of accident. Challenging the same, the present writ petition is filed.

2.Learned Counsel appearing for the petitioner submitted that the petitioner is an Undertaking of the Government of Tamil Nadu, engaged in the construction of houses for police personnel. One Ganesan, who was working under the fifth respondent / Contractor, died in an accident in the working spot. The respondents 2 to 4, the legal heirs of the deceased Ganesan, filed a claim petition before the first respondent in WC.No.73 of 2012. In the claim petition, the claimants have mentioned the address of this petitioner as Anbu Nagar, Palayamkottai, Tirunelveli. But the petitioner never functioned in the said address and as such, they have not received any notice in the claim petition. While so, an *ex-parte* award was passed and they came to know about the claim petition only after the receipt of the award. Without hearing them, the award was passed and therefore, they have filed an application to set aside the *ex-parte* award. However, the application was returned with a direction to deposit the award amount.



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3. Since the petitioner has pleaded that notice was not served on them in the claim petition and that the award has been passed without providing them an opportunity of hearing, this Court directed the learned Additional Government Pleader to get instructions in this regard.

4. Learned Additional Government Pleader appearing for the first respondent, on instructions, submitted that the records in the Office of the first respondent got washed away during the recent floods and therefore, they are not in a position to clarify as to whether any notice has been served on the petitioner or not.

5. Considering this submission of the learned Additional Government Pleader on behalf of the first respondent, the specific stand taken by the petitioner and taking into account that an *ex-parte* award has been passed, this Court is inclined to provide an opportunity to the petitioner.



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6. Accordingly, this writ petition is allowed and the matter is remitted back to the file of the first respondent for fresh consideration. Since it is reported that the entire records in the Office of the first respondent got washed away during the recent floods, the parties to the *lis* shall reconstitute the papers before the first respondent. The first respondent shall consider the claim petition, afresh, after providing due opportunity of hearing to the parties concerned and shall conclude the proceedings, as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes / No
NCC : Yes / No
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B.PUGALENDHI, J.

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To

The Commissioner for Employees' Compensation,
Deputy Commissioner of Labour,
Tirunelveli.

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