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**(2010) 12 MAD CK 0326**

**In the Madras High Court**

**Case No : Writ Petition (MD) No. 8925 of 2008**

A. David Raja Amirtham

APPELLANT

Vs

The District Collector and The Tiruchirappalli Consumers Co-operative Wholesale Stores Ltd.

RESPONDENT

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**Date of Decision : 15-12-2010**

**Acts Referred:**

Payment of Gratuity Act, 1972 — Section 8

**Citation : (2010) 12 MAD CK 0326**

**Hon'ble Judges : M. Venugopal, J**

**Bench : Single Bench**

**Advocate : N.C. Ashok Kumar, for the Appellant; D. Sasikumar, Government Advocate for R1 and S. Karthik, for R2, for the Respondent**

**Final Decision : Allowed**

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## **Judgement**

M. Venugopal, J.—The Petitioner has filed the present Writ Petition praying for issuance of Writ of a Mandamus before this Court for issuance of an order in directing the first Respondent to recover the Petitioner's Gratuity arrears from the Second Respondent as per the proceedings in No. AA2/9294/04 dated 27.07.2004 issued by the Assistant Commissioner of Labour (Gratuity) Trichy and pay the same to the Petitioner.

2. The Petitioner joined the services of the Second Respondent as Salesman on 03.09.1977. He voluntarily retired from the service on 31.03.2001. The Second Respondent has not paid a sum of Rs. 15,272/- (Rupees Fifteen Thousand Two Hundred and Seventy Two only) towards gratuity amount to which the Petitioner is entitled to. As such, the petitioned projected P.G. Application No. 16 of 2003 before the Assistant Commissioner of Labour, Trichy. On 22.03.2004, the Second Respondent has been directed to pay Rs. 15,272/- (Rupees Fifteen Thousand Two Hundred and Seventy Two only) together with 10% interest from the date on which it has fallen due, till date of payment.

3. It is the case of the Petitioner that since the aforesaid amount has not been paid, the Assistant Commissioner of Labour, Trichy, has issued necessary Certificate as per Section 8 of the Payment of Gratuity Act on 27.07.2004. Although, repeated representations have been made by the Petitioner to the First Respondent, no steps have been taken to recover the amount from the Second Respondent. Therefore, the Petitioner has been left with no option, but to project the present writ petition.

4. Admittedly, the Petitioner is entitled to a sum of Rs. 15,272/- (Rupees Fifteen Thousand Two Hundred and Seventy Two only) with interest at 10% per annum from the date on which the amount has fallen due till the date of payment. Notwithstanding the fact that the Assistant Commissioner of Labour, Trichy, has passed an order dated 22.03.2004, in and by which the application filed by the Petitioner in P.G. Application No. 16 of 2002 has been allowed, the amount has not been paid to the Petitioner and subsequently, a necessary Certificate as per Section 8 of the Payment of Gratuity Act, has been issued by the Assistant Commissioner of Labour, Trichy, on 27.07.2004. However, the representations made by the Petitioner to the First Respondent, District Collector, Trichy, have proved otiose.

5. On going through the averments made by the Petitioner in the present writ petition, this Court is of the considered view that the writ petition is to be allowed in the interest of justice, equality, fair play good conscience and even in the matter of prudence, when that too, the Petitioner has retired from service voluntarily on 31.03.2001, till he is not able to get the monetary benefits due from the concerned authority.

6. Therefore, this Court allows the present writ petition in directing the First Respondent District Collector, Trichy, to recover the Petitioner's Gratuity arrears from the Second Respondent as per the proceedings in No. AA2/9294/2004 dated 27.07.2004, within a period of three months from the date of receipt of a copy of this order. No costs.