

(2010) 12 MAD CK 0327

In the Madras High Court

Case No : Writ Petition (MD) No. 8831 of 2008

Jayabarathy

APPELLANT

Vs

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

RESPONDENT

Date of Decision : 14-12-2010

Acts Referred:

Payment of Gratuity Act, 1972 — Section 8

Citation : (2010) 12 MAD CK 0327

Hon'ble Judges : M. Venugopal, J

Bench : Single Bench

Advocate : N.C. Ashok Kumar, for the Appellant; D. Sasikumar, Government Advocate for Respondent 1 and S. Karthik, for Respondent 2, for the Respondent

Final Decision : Allowed

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. AA2/9034/04 dated 21.07.2004 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 Junior Assistant on 01.10.1973. He voluntarily retired from the service on 31.03.2001. The Second Respondent has not paid a sum of Rs. 20,278/- (Rupees Twenty Thousand Two Hundred and Seventy Eight only) towards gratuity amount to which the Petitioner is entitled to. As such, the Petitioner projected P.G. Application No. 23 of 2003 before the Assistant Commissioner of Labour, Trichy. On 29.12.2003, the Second Respondent has been directed to pay Rs. 20,279/- (Rupees Twenty Thousand Two Hundred and Seventy Nine 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 21.07.2004. 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. 20,278/- (Rupees Twenty Thousand Two Hundred and Seventy Eight 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 29.12.2003, in and by which the application filed by the Petitioner in P.G. Application No. 23 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 21.07.2004. 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. AA2/9034/04 dated 21.07.2004, within a period of three months from the date of receipt of a copy of this order. No costs.