

Madras High Court

D.Dhamayanthi vs The District Collector on 14 December, 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14/12/2010

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P.(MD)No.8829 of 2008

D.Dhamayanthi

... Petitioner

Vs.

1.The District Collector,
Trichy.

2.The Tiruchirappalli Consumers
Co-operative Wholesale Stores Ltd.,
Rep.by its Special Officer,
12/1, E.V.R.Road,
Puthur,
Trichy.

... Respondents

Prayer

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to recover the petitioner's gratuity arrears from the second respondent and pay the same to the petitioner.

!For Petitioner ... Mr.N.C.Ashok Kumar

^For Respondents... Mr.D.Sasikumar,
Government Advocate for R1
... Mr.S.Karthik for R2

:ORDER

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 and pay the same to the petitioner.

2.The petitioner joined the services of the Second Respondent as Sales Woman on 07.10.1973. She voluntarily retired from the service on 31.03.2001. The Second Respondent has not paid a sum of Rs.14,420/-(Rupees Fourteen Thousand Four Hundred and Twenty only)towards gratuity amount to which the petitioner is entitled to. As such, the petitioner projected P.G.Application No.3 of 2002 before the Assistant Commissioner of Labour, Trichy. On 29.12.2003, the Second Respondent has been directed to pay Rs.14,420/-(Rupees Fourteen Thousand Four Hundred and Twenty 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. 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.14,420/-(Rupees Fourteen Thousand Four Hundred and Twenty 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.3 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. 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 she 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 order dated 29.12.2002 in Gratuity Case No.3 of 2002 within a period of three months from the date of receipt of a copy of this order. No costs.

gsr TO

1.The District Collector, Trichy.

2.The Tiruchirappalli Consumers Co-operative Wholesale Stores Ltd., Rep.by its Special Officer, 12/1, E.V.R.Road, Puthur, Trichy.