

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 2ND DAY OF MARCH 2015/11TH PHALGUNA, 1936

OP(LC) .No. 115 of 2010 (O)

ID 7/2004 of LABOUR COURT, KANNUR DATED 27-01-2010

PETITIONER:

K.P.RAVEENDRAN,
S/O.GOVINDAN, AGED 52 YEARS, CHANDHUKUTTY MANDIRAM
P.O.KARIVALLOOR, KANNUR DISTRICT.

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENT:

1. THE SENIOR GENERAL MANAGER,
H.R.LUPIN LABS LTD., C.S.T. ROAD, KALEENA
SANTACRUZ (EAST), MUMBAI - 400098.

2. LABOUR COURT, KANNUR - 01.

R1 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
GOVERNMENT PLEADER SRI. MANOJ KUNJACHAN

THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD ON 02-03-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP(LC).No. 115 of 2010

APPENDIX

PETITIONER'S EXHIBITS:

P1 : TRUE COPY OF THE FRESH APPOINTMENT LETTER ISSUED BY THE 1ST
RESPONDENT DATED 14.9.2000.

P2 : TRUE COPY OF THE IDENTITY CARD ISSUED BY THE COMPANY, 1ST
RESPONDENT HEREIN SHOWING THE DATE OF BIRTH OF THE PETITIONER.

P3 : TRUE COPY OF THE LETTER DATED 30.09.2000.

P4 : TRUE COPY OF THE AWARD IN I.D. NO.7/2004 OF LABOUR COURT,
KANNUR DATED 27.01.2010.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

O.P.(LC) No.115 of 2010

Dated this the 2nd day of March, 2015

JUDGMENT

The petitioner/workman is aggrieved by Ext.P4 order of the Labour Court. The petitioner was a Medical Representative, with the management company. Admittedly the petitioner had been absent allegedly due to medical reasons. The petitioner is also said to have made regular leave applications with medical certificates. However, repeated demand of the management, to appear before the company's Medical Officer was not responded to. The management hence terminated the service of the petitioner on the ground of unauthorised absence; holding the same to be voluntary abandonment of employment.

2. The issue as to the justifiability of the petitioner's termination was raised before the Labour Court which considered the same and found the termination to be unjustifiable and limited the relief to a compensation of Rs.2,00,000/-. The petitioner contends that the petitioner is entitled to reinstatement with full back wages.

3. The Labour Court raised three issues, as to the claim of the petitioner to be a worker under the Industrial Disputes Act, 1947, the territorial jurisdiction of the Labour Court and justifiability of the termination. On the question of maintainability the petitioner being a Medical Representative, was found to be entitled to invoke the provisions of the Industrial Disputes Act, 1947, being an “employee” as defined under the Sales Promotion Employees (Conditions of Service) Act, 1976. The jurisdictional aspect was also answered in favour of the workman. No challenge against the said order is made by the management.

4. On the justifiability of termination the Labour Court found that, number of documents produced by the petitioner-workman would indicate that he had been regularly submitting leave applications. The management's contention that this was merely a device to stay-off from employment was rejected by the Labour Court. The management mainly relied on the fact that, the petitioner turned up for duty with a fitness certificate when he was issued with notice of termination.

5. The Labour Court refused to accept the contention of the

management that, the medical certificates were merely a ruse to keep away from duty. The Labour Court found that if the management had such a case then definitely an enquiry ought to have been initiated against him. However considering the issue of the relief to be granted the Labour Court confined it to a compensation at Rs.2,00,000/-.

6. The Labour Court also in its award specifically noticed that the petitioner was granted re-appointment as on 01.10.2000. The Labour Court found that there was nothing wrong in the petitioner having not accepted the reappointment, since that would be a fresh appointment, accepting which, would dis-entitle the petitioner from continuity of service.

7. The fact remains that, there was an adjudication pending, as to the termination and the petitioner-workman could have accepted such reappointment and the further reliefs would have been subject to the orders in the dispute referred. The petitioner having not accepted the re-appointment, this Court does not find any infirmity in the Labour Court having declined reinstatement. As to the compensation to be awarded, the Labour Court elaborately considered the issue and found that

Rs.2,00,000/- would be fair compensation. When discretion has been exercised by the Labour Court, this Court would not extend its extraordinary jurisdiction to interfere with the same. There is no occasion to find any arbitrariness or perversity to interfere thereon. This Court does not find any infirmity in the order of the Labour Court nor is any reason discernible to cause interference to the relief granted.

The original petition hence would stand dismissed. No costs.

smv

//true copy//

Sd/-
K. VINOD CHANDRAN,
JUDGE