

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

OP(LC).No. 78 of 2011 (O)

ID.NO. 23/2010 OF LABOUR COURT, KOLLAM

PETITIONER:

**VIJAYAMMA, AGED 58 YEARS,
W/O.GOPINATH, THUNDUVILA VEEDU,
AYATHIL.P.O., KOLLAM DISTRICT.**

BY ADV. SRI.T.N.SURESH

RESPONDENT(S):

- 1. THE PROPRIETOR,
J.S.CASHEW EXPORTERS, K.P.ROAD, KILIKOLLOOR,
KOLLAM-691 004.**
- 2. THE PRESIDING OFFICER,
LABOUR COURT, KOLLAM. PIN-691 001**

**R1 BY ADVS. SRI.T.M.CHANDRAN
SRI.V.A.SASIDHARAN
SRI.JOSEPH ALBIN NEDUNTHALLY
R2 BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN**

**THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

OP(LC).NO.78/2011

APPENDIX

PETITIONER'S EXHIBITS:

- P1 COPY OF THE CLAIM STATEMENT IN I.D.NO.23/2010 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
- P2 COPY OF THE PROOF AFFIDAVIT FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT**
- P3 COPY OF THE AWARD PASSED BY THE 2ND RESPONDENT IN I.D.NO.23/2010.**

RESPONDENT'S EXHIBITS:

DOCUMENT NO.1- TRUE COPY OF THE LETTER.

**DOCUMENT NO.2- TRUE COPY OF THE RECEIPT OF ACKNOWLEDGEMENT RECEIPT
DATED 16/11/2012**

/TRUE COPY/

P.A.TO.JUDGE

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K. VINOD CHANDRAN, J.

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O.P.(L.C) No.78 of 2011

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Dated this the 5th day of March, 2015

J U D G M E N T

The petitioner is aggrieved with the award of the Labour Court, Kollam, at Ext.P3, insofar as the denial of back wages. Reference was made, as to the justifiability of the denial of employment, of the petitioner herein.

2. The Labour Court treated the charter of demand of the worker as her claim statement on account of the petitioner having not filed any claim statement before Court. It was found that the charter of demand only indicated that, the petitioner was changed from one category to another. The management remained ex-parte before the Labour Court. The evidence of the petitioner was also found to have not indicated any specific denial of employment. It was in such circumstances, while reinstatement was ordered, the Labour Court refused to

grant any back wages.

3. The learned Counsel for the petitioner points out Exts.P1 and P2, the claim statement and the proof affidavit to contend that, there was a specific allegation of denial of employment from 04.02.2009. The claim statement is obviously filed in August 2010. The award of the Labour Court itself is dated 31.08.2010. Hence, no interference of the award can be made on account of the alleged filing of the claim statement, towards the end of the proceedings before the Labour Court. However, Ext.P2 proof affidavit, indicates that, the petitioner has pleaded her denial of employment on 04.02.2009. Only on account of the same, the matter has to be remanded.

4. This Court has not verified whether the proof affidavit before the Labour Court is that in Ext.P2. In the circumstance of the management also having been ex-parte before the Labour Court, this Court would remand the matter to the Labour Court, Kollam for fresh

consideration. The parties shall appear before the Labour Court on 25.03.2015. The claim statement, if filed, shall be taken to the files and the management also shall be permitted to file an objection and the matter shall be considered and disposed at any rate, within a period of six months from the date of receipt of a certified copy of this judgment. The proof affidavit of the petitioner already filed alone need be considered.

The writ petition is disposed of. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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// true copy //

P.A to Judge