

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON
&
THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WA.No. 731 of 2014 IN
WP(C).24216/2007

AGAINST THE JUDGMENT IN WP(C) 24216/2007 of HIGH COURT OF KERALA
DATED 03-12-2013

APPELLANT/1ST RESPONDENT IN THE WPC:

KOCHIN DIESEL SALES AND SERVICES,
S.N. JUNCTION, THRIPPUNITHURA
ERNAKULAM, COCHIN REPRESENTED BY ITS
MANAGING PARTNER B.K. BIJU.

BY ADV. SRI.R.MURALIDHARAN (ARoor)

RESPONDENTS/PETITIONER/2ND RESPONDENT IN THE WPC:

1. ANUMON P.V.,
S/O. P.R. VISWAMBARAN, AGED 34 YEARS
PARAKKATTIL HOUSE
PERINGOTTUKARA, KIZHAKKUMURI P.O.
THRISSUR 678 508.

2. LABOUR COURT, ERNAKULAM 682 031.

R1 BY SRI.K.S.MADHUSOODANAN
R2 BY GOVERNMENT PLEADER SRI M. MOHAMMED SHAFI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**P.R. RAMACHANDRA MENON
&
BABU MATHEW P. JOSEPH, JJ.**

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W.A. No. 731 OF 2014

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Dated this the 1st day of July, 2015

JUDGMENT

P.R. Ramachandra Menon,J.

Enhancement of compensation awarded by the Labour court as per the judgment passed by the learned single Judge in W.P.(C) No. 24216/2007 preferred by the first respondent worker, providing payment of a total sum of Rs.50,000/- with interest @10% from 26.12.2002 till payment, is sought to be challenged in this appeal preferred by the appellant/Management.

2. The factual matrix shows that the appellant was

running a partnership firm, doing sales and services of Diesel Generator Sets etc. manufactured by M/s. Kirloskar Oil Engines Ltd, Pune. It is also stated that the first respondent herein was appointed as a Service Technician in the firm on 1.4.2011, on completion of two and half months' training in Kirloskar Company at Pune at the expense of the appellant. The appointment of the first respondent was on a monthly salary basis which was stated as Rs.2080/- including basic salary and dearness allowance at that point of time, which was stated as revised to Rs.2500/- on regular appointment with effect from 1.4.2001.

3. While so, alleging denial of appointment, an industrial dispute was raised by the first respondent leading to reference to the second respondent, where it was numbered as I.D. No. 1 of 2004. The case of the Management was that, there was no denial of employment and that the worker was deputed to rectify some defects on raising a complaint by a customer at Pathanapuram, which

was not properly done by the first respondent, causing heavy loss to the Management. When the worker was questioned in this regard, he went out and refused to report back and hence it could only be a case of voluntary abandonment.

4. After completing the pleadings and proceedings, the matter was finalised by the second respondent based on the evidence let in, passing Ext.P2 Award, wherein a clear finding was rendered that there was denial of employment with effect from 26.12.2002. However, the Labour Court found that the relationship between the Management and the workman was strained and hence it was not proper to have ordered reinstatement, more so since the unit was stated as closed having lost the dealership. It was in the said circumstances, that the relief was moulded by the Labour Court, directing to satisfy a sum of Rs.10,000/- as compensation, to be effected within one month as specified.

5. Adequacy of the compensation was sought to be

challenged by the worker by filing W.P.(C) No. 24216 of 2007. After hearing both the sides, the learned single Judge observed that the verdict passed by the Labour Court regarding the finding rendered by the Labour Court and on the denial of employment had become final. Referring to the facts and circumstances, it is observed that, according to the worker, he was getting a sum of Rs.3,000/- per month as salary. Considering the denial of employment with effect from 26.12.2002, the compensation awarded by the Labour Court was found as abysmally low and hence it was enhanced to Rs.50,000/- with interest at 10% per annum from 26.12.2002.

6. Heard the learned counsel for the appellant, learned counsel for the first respondent and also the learned Government Pleader.

7. Learned counsel appearing for the appellant submits that the course and conduct of the respondent worker had resulted in substantial loss to the Management/

establishment, who could not satisfy the conditions governing the dealership. As a natural consequence, the dealership of the appellant was also cancelled by M/s. Kirloskar Company and the Unit came to be closed down in the year 2006. Learned counsel further submits that partnership is no more and the other partner, who had joined hands with the appellant while setting up the Unit has already bid farewell to this world. It is stated that the first respondent was serving the establishment only for a short spell of two years and 25 days and as it stands so, the liability now refixed by the learned single Judge is too onerous and beyond the reach of the appellant.

After hearing both sides and also after considering the facts and circumstances, we find that the reasoning given by the learned single Judge to enhance the compensation awarded by the Labour Court is not liable to be intercepted. However, considering the sequence of events leading to cancellation of the dealership and closure of the Unit way

back in the year 2006 and other relevant aspects, we find it fit and proper to delete payment of interest on the principal amount of Rs.50,000/-. In the said circumstances, there will be a direction to the appellant/Management to disburse the enhanced compensation, after giving credit to the amount of Rs.10,000/- stated as deposited before the Labour Court pursuant to Ext.P2 Award (i.e. Rs.40,000/-), which shall be done within one month from the date of receipt of a copy of this judgment.

The writ appeal is disposed of as above.

Sd/-
P.R. RAMACHANDRA MENON
JUDGE

Sd/-
BABU MATHEW P. JOSEPH
JUDGE

ks. True copy

P.S. (Hr.Gr.)To Judge

