

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 04-03-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4141 OF 2014

Mohammed Moosa

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Petitioner

-vs-

1.The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Chennai-600 006.

2.M/s.Emirates Airlines,
rep.by its HR-Manager,
Maker Chambers VI, No.86,
8th Floor, Nariman Point,
Mumbai-21.

3.The Station Manager,
M/s.Emirates Airlines,
Chennai Airport,
Chennai.

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Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorarified mandamus, to call for the records on the file of the first respondent relating to the order passed in C.P.No.3 of 2012 and quash the same pertaining to the denial of medical reimbursement a sum of Rs.7,64,651.05 ps. and denial of shortfall backwages a sum of Rs.3,48,000/- and consequently direct the second and third respondents to pay medical reimbursement and full backwages for the period from 16.08.2005 to 31.07.2008.

For petitioner : Mr.D.Muthukumar
For respondents 2 & 3 : Mr.J.R.Jayanth,
for Mr.J.Sivanandaraj

O R D E R

Heard Mr.D.Muthukumar, learned counsel for the petitioner; and Mr.J.R.Jayanth for Mr.J.Sivanandaraj, learned counsel appearing for respondents 2 and 3.

2. Petitioner has filed this Writ Petition, challenging the award of the Central Government Industrial Tribunal, (CGIT), Labour Court, Chennai, in C.P.No.3 of 2012, dated 19.09.2013. Petitioner filed the said petition under Section 33 (C) (2) of the Industrial Disputes Act, 1947, claiming Rs.7,64,651/- towards medical reimbursement, stating that he has sent all the original medical bills to the management, but, they have not taken any steps to pay the amount. The respondent management contended before CGIT that the petitioner has been paid Rs.4,83,360/- towards disability claim on 30.10.2003, which he has accepted, and subsequently, the petitioner, on being certified by medical experts, was found fit to resume duty and, therefore, there is no further obligation to pay any disability claim to the petitioner. The respondent management further disputed the claim of medical expenses, stating that though the petitioner was repeatedly asked to produce the original documents, he failed to submit the same and in the absence of the original bills and other documents, the claim could not be entertained. Based on these averments, the parties went for trial and the petitioner examined himself as P.W.1 and marked seven documents as Exs.P-1 to P-7. There is no oral evidence on behalf of the management, but, they marked seven documents, namely, Exs.R-1 to R-7.

3. The Central Government Industrial Tribunal framed a point for consideration, as to whether the petitioner is entitled to the claim made in the petition?

4. On perusal of the oral and documentary evidence, the Tribunal granted partial relief to the petitioner in ordering for payment of backwages of Rs.4,83,360/-, together with interest at 6% per annum and the petitioner has no grievance over the same nor the management has challenged that portion of the award and the amount has been disbursed to the petitioner. In paragraph 19 of the award, with regard to the claim for medical reimbursement, the Tribunal concluded that there was no proof to show that the original bills, medical bills etc., were submitted to the respondent. Thus, in effect, the claim for medical reimbursement came to be rejected.

5. The matter was heard by this Court elaborately on 22.02.2016, whereupon, learned counsel for the petitioner reiterated the contentions raised before the Tribunal and sought to impress upon this Court that e-mail communication sent by the petitioner to the management and their response would establish that hard copies of original bills had been received by the management. On perusal of the said e-mail communication, it is seen that there is no specific commitment made by the respondent management, stating that they have received the originals, whereas, they would state that they have received the hard copies of the documents and that by itself, can lead to a

conclusion a that the originals have been submitted by the petitioner and received by the respondent management. Thus, before the Tribunal, the petitioner was unable to substantiate the said fact by producing material evidence and, therefore, this Court, while examining the correctness of the award of CGIT, will not act as a second appellate authority over the factual finding recorded by the trial Court unless and until it is shown that the award was perverse. The reasons assigned by CGIT, therefore, do not reveal any perversity, for interfering with the impugned award. In the light of the above finding, this Writ Petition has to necessarily fail.

6. At the conclusion of arguments of the matter on 22.02.2016, this Court suggested that in the event the petitioner is able to get certified true copies of the original bills/prescriptions and other records from the hospital where he was administered treatment, the management could consider the same and forward the same to the insurance company for consideration of the claim. This observation was made in the light of the submissions made by the learned counsel for the respondent management that medical reimbursement has to be sanctioned by the insurance company with whom the management has had a tie-up and the entire claim will be processed by the insurance company and all that the management needs to do is to forward the application for grant of medical reimbursement, for which learned counsel for the respondent sought time to get instructions from the respondent management.

7. Today, when the matter is taken up, learned counsel for the respondent submitted that the management is ready and willing to forward whatever documents the petitioner would submit from the hospital to the insurance company, who has provided for the medical insurance cover, to its employees, and it is for the insurance company to process the claim made by the petitioner.

8. In the light of the above submissions, this Court, while confirming the award passed by CGIT in C.P.No.3 of 2012, dated 19.09.2013, grants liberty to the petitioner to submit the authenticated bills/certified copies of documents where the originals are not available from the hospital where the petitioner was given treatment, to justify his claim for medical reimbursement, to the respondent management for onward transmission to the insurance company, who has given the medical insurance cover to the employees of the second respondent. The respondent management shall forward the entire set of papers with necessary inputs to the said insurance company within a period of three weeks from the date on which the petitioner submits the documents. Thereafter, it is open for the petitioner to follow up its claim with the said insurance company.

9. With the above direction, this Writ Petition is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

dixit

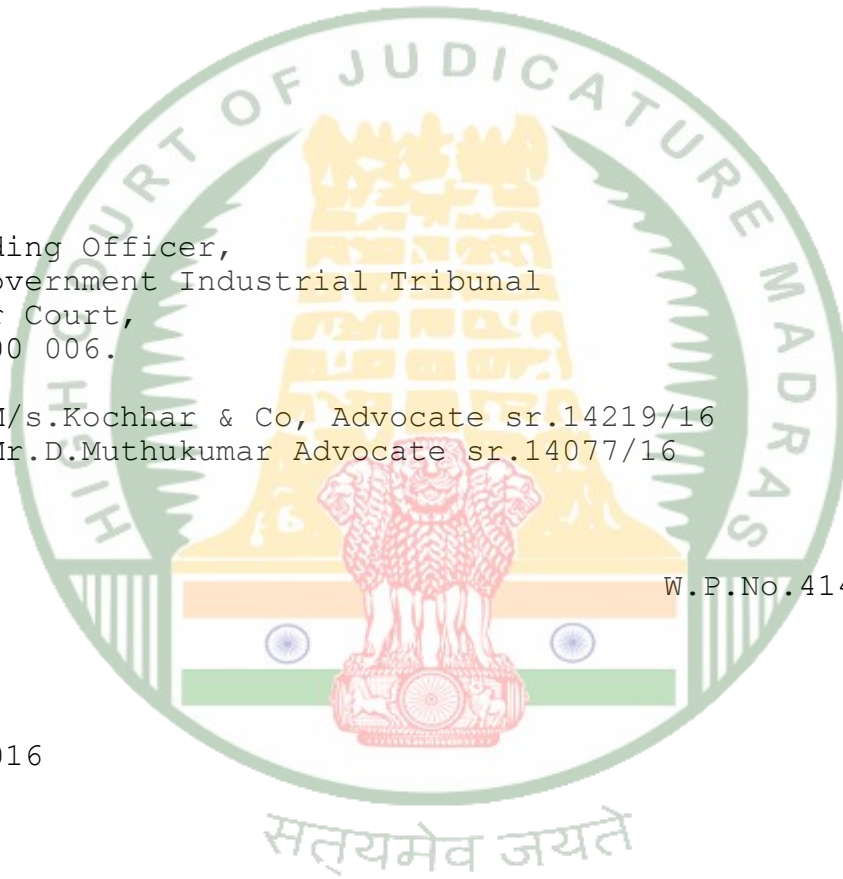
To

The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Chennai-600 006.

+1 cc to M/s.Kochhar & Co, Advocate sr.14219/16
+1 cc to Mr.D.Muthukumar Advocate sr.14077/16

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