

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.4102 of 2016

S.Saravanan

.. Petitioner

Versus

1. The Assistant Labour Commissioner (Central)
O/o. Deputy Chief Labour Commissioner
(Central), Shastri Bhavan,
Haddows Road, Chennai - 600 006

2. The Chairman
Pallavan Grama Bank
Head Office, No.6, Yercaud Road
Hasthampatti, Salem - 636 007

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the 2nd Respondent herein to implement the Award passed by the Central Government Industrial Tribunal - cum - Labour Court, Chennai in I.D.No.46 of 2011 dated 13.12.2013 by reinstating the Petitioner in service with continuity of service and with all other attendant benefits and by paying back 50% wages from the date of termination from service to date of the Award and full salary from the date of the Award till date of actual reinstatement in service within a time frame.

For Petitioner : Mr. K.M.Ramesh

For R1 : No Appearance

For R2 : Mr.L.Jaikumar Associates

ORDER

Heard Mr.K.M.Ramesh, learned counsel for the petitioner. Though the second respondent Bank has been served and their name is printed in the cause list, they appear to have not given specific written instruction to their counsel. When the case came up for admission on 03.02.2016, this Court considering the limited relief sought for by the petitioner, directed notice to

be sent through Court and privately. Subsequently, the case was listed on 26.2.2016 and adjourned to 01.3.2016 to enable the learned counsel for the petitioner to file proof of service of notice on the second respondent Bank. When the case was subsequently heard on 03.3.2016, the Registry was directed to verify Affidavit of Service and to print the name of the second respondent. The name of the second respondent has been printed and on the last occasion, this Court orally instructed the learned counsel for the petitioner to inform the Advocate, who appeared for the second respondent Bank before the Central Government Industrial Tribunal - cum - Labour Court (in short CGIT) based on which, the representation was made before this Court stating that no instruction was given by the Bank and they need to get instructions.

2. It has to be noted that the Award was passed by the CGIT on 13.12.2013 and the same was communicated from the office of the CGIT to both the petitioner as well as the second respondent Bank by communication dated 06.2.2014. The petitioner submitted a representation to the second respondent requesting for implementation of the Award passed by the CGIT by his letter dated 26.02.2014. The Chairman of the second respondent Bank by reply dated 28.3.2014, informed the petitioner that they forwarded the order of the CGIT to the panel lawyers and they will be moving this Court for suitable relief and hence, they are not in a position to comply with the same till the matter reaches finality. The petitioner waited for about 5 months and since he did not receive any notice from this Court on any challenge made by the second respondent to the Award of the CGIT, he submitted a representation to the Deputy Chief Labour Commissioner on 14.8.2014 to issue appropriate direction to the Management of the second respondent Bank to implement the Award. In response to such representation, it appears that the matter has been forwarded to the first respondent herein and the first respondent has addressed a letter to the second respondent Bank on 28.7.2014. On receipt of the letter, the second respondent Bank sent a reply on 19.8.2014 to the first respondent marking a copy to the writ petitioner, stating that the second respondent Bank has preferred an appeal before this Court by way of writ petition challenging the Award passed by the CGIT and matter is sub-judice and requested the petitioner to await outcome of the appeal. On receipt of the copy of the communication dated 19.8.2014, the petitioner addressed a letter dated 19.12.2015 to the second respondent Bank stating that though more than two years have lapsed from the date of Award passed by the CGIT, till date, the same has not been implemented. Further, it was stated that in the letter dated 19.8.2014, though it has been mentioned that the writ petition has been filed, the number of the writ petition has not been given and it has also not been stated as to whether any order of stay has been granted. It has

also been specifically stated that he has not received any notice from the High Court regarding the so-called writ petition filed by the second respondent and the petitioner appears to have verified from the Information Centre of this Court and states that there is no such writ petition filed by the second respondent against the Award in I.D.No.46 of 2011.

3. Therefore, it was represented that non-implementation of the Award is wilful and wanton and it is clear that the Management has deliberately violated and breached the Award which has become enforceable after one month from the date of publication in the Official Gazette. In spite of such representation dated 19.12.2015, nothing appears to have transpired and there is no intimation from the second respondent Bank, which has necessitated the petitioner to approach this Court.

4. The above facts would clearly show that there is nothing on record to show that writ petition has been filed against the Award dated 13.12.2013 in I.D.No.46 of 2011 and if such a writ petition has been filed, nothing prevented the Chairman of the Bank to inform the first respondent in his letter dated 19.8.2014 about the number of writ petition. It is not known as to why such a vague communication has been sent, that too, to the Assistant Labour Commissioner (Central). In view of the same, this Court safely presumes that there is no writ petition filed by the Management challenging the Award dated 13.12.2013 in I.D.No.46 of 2011.

5. In the light of the above, the writ petition is allowed as prayed for and the second respondent Bank is directed to implement the Award dated 13.12.2013 in I.D.No.46 of 2011, within a period of four weeks from the date of receipt of a copy of this order. No costs.
ga

-s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1. The Assistant Labour Commissioner (Central)
O/o. Deputy Chief Labour Commissioner
(Central), Shastri Bhavan,
Haddows Road, Chennai - 600 006

2. The Chairman
Pallavan Grama Bank
Head Office, No.6, Yercaud Road
Hasthampatti, Salem - 636 007

+ 1 cc to Mr.K.M.Ramesh, Advocate, SR 13635

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