

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-

WRIT PETITION No.1407 OF 2015

ORDER:

This Writ Petition is filed challenging the order, dated 27.11.2014, in I.A.No.127 of 2014 in M.P.No.54 of 2013 passed by Labour Court-I, Hyderabad, whereby the request of the petitioner for summoning certain documents, was dismissed on the ground that the respondents have agreed to produce full and final settlement letters. With regard to muster roll and pay roll register, the Court below held that when the pay is not in dispute and salary certifies are very much available, they are not required. With regard to Form P/PA, the Court below held that they are not relevant to the present case as per

Section 33C (2) of the Industrial Disputes Act, 1947 (for short, 'the Act'). A petition under Section 33C (2) of the Act requires the Court to decide the actual eligibility, but not to make a roving enquiry by collecting the evidence and making calculations and decide the rights of the parties.

2. The main contention of the petitioner before this Court is that the order passed by Court below is without any basis. In the affidavit filed in support of the petition, the petitioner narrated the facts about the required documents at paras 1 to 4 and at paras 11 and 12, the petitioner also raised the general grounds; that the order passed by the Court below is illegal and is not in accordance with law; that the Court below would have summoned only the official records for deciding the retrenchment compensation based on salary drawn and service period of the workman. Except the above contentions, no specific ground is raised.

3. During the course of hearing, learned counsel for the petitioner while reiterating the grounds urged in the Writ Petition, drawn the attention of this Court to a judgment in **B.O.C. India Ltd. Vs.Indian Oxygen Employees Union**^[1] and contended that the documents mentioned in the petition are necessary to prove the undue favoritism

shown to other employees though the petitioner was paid retrenchment compensation in accordance with the Section 25 F of the Act and again requested to allow the petition and summon the documents.

4. Per contra, learned counsel for the respondents would contend that all benefits were paid to the petitioner including retrenchment compensation and salary for one month as compensation under the Act besides payment of Gratuity of Rs.1,05,908/-. He further contended that Section 33C (2) of the Act can only be invoked when there is shortfall in payment of retrenchment compensation and other amounts legally entitled by the petitioner. Therefore, the documents that are sought to be summoned are not necessary for deciding the real controversy and prayed for dismissal of the writ petition.

6. The main issue before this Court is whether the documents summoned are relevant for deciding the real controversy, more particularly, to decide the retrenchment compensation payable under Section 25 F of the Act.

7. Undisputedly, the petitioner received an amount of Rs.1,83,588/- towards full and final settlement, which includes the retrenchment compensation amount of Rs.1,25,288/-. The petitioner also paid an amount of Rs.1,05,908/- towards Gratuity. The only dispute is that the other employees, who were already retrenched were paid additional pay for 30 days and petitioner was not treated equally on par with them and therefore, those documents are necessary to prove the said fact.

8. Admittedly, the petitioner is entitled to retrenchment compensation as per Section 25F of the Act and if any undue preference is given to the petitioner, the petitioner is entitled to claim such compensation in a different proceeding. As the petitioner was paid retrenchment compensation only in terms of Section 25F of the Act, the Labour Court rightly expressed its view that the documents are not necessary, since section 33C (2) of the Act cannot be invoked in the present case as there

is no shortfall in payment of retrenchment compensation and other benefits in terms of
Section 25F of the Act.

9. With regard to full and final settlement letters, the respondents are already agreed to produce the same before the Labour Court as observed in the order. The Labour Court rightly exercised its discretion in dismissing the petition. At best, if the petitioner invoked Section 33C (2) of the Act by filing any calculation memo, the petitioner can revive his request and the Labour Court shall reconsider the request of the petitioner subject to its discretion. Therefore, I find no ground to set aside the order, dated 27.11.2014, passed in I.A.No.127 of 2014 in M.P.No.54 of 2013.

10. In the result, the Writ Petition is dismissed at the stage of admission. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this Writ petition shall stand closed.

APRIL 18, 2016
YVL

M.SATYANARAYANA MURTHY, J

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

WRIT PETITION No.1407 OF 2015

Date: 18.04.2016

YVL

[\[1\]](#) LAWS (BOM)-1999-7-44