

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2017

CORAM :

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.4013 of 2017

M.Mahendran

... Petitioner

vs.

1. The Presiding Officer  
Principal Labour Court,  
Chennai - 600 104.

2. M/s. Bhavani Stores  
Rep. by its Proprietor  
11/15, Illaya Mudali Street,  
Saamiyar Garden,  
Washermenpet, Chennai - 600 021. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records of the first respondent in Award passed in I.D.No.66 of 2015, dated 23.09.2016 on the file of the Principal Labour Court, Chennai and quash the same.

For petitioner : Mr.R.Ravindra Ram

O R D E R

This writ petition has been filed challenging the correctness of the impugned Award, dated 23.09.2016 passed by the Principal Labour Court, Chennai in I.D.No.66 of 2015.

2. The claim of the petitioner made before the Labour Court relates only to payment of full backwages, amounting to Rs.9,47,548/- along with banking interest amounting to Rs.2,08,450/-. To the said claim, a counter statement was filed by the second respondent raising preliminary objection that for claiming backwages, the petitioner cannot raise Industrial Dispute under Section 2(A)(2) of the Industrial Disputes Act, 1947.

3. Answering the issue brought before, the learned Labour Court while rightly appreciating the claim made by the petitioner, has made it clear that the petitioner has raised a claim only under Section 2(A) of the Industrial Disputes Act.

However, the workman can raise an industrial dispute under Section 2(A) of Industrial Disputes Act only with regard to discharge, dismissal, retrenchment or otherwise the termination of the services. Since he has not stated that he was terminated from the service, but stated that he himself stopped going to work and he has also not asked for the reinstatement of service, he claims only backwages at Rs.1.00 per piece for the work done by him for the period from 15.03.2007 to 14.01.2014. Having not been supported with any material to show that the second respondent has agreed to pay Rs.1.00 per piece, the Labour Court dismissed the industrial dispute raised by the petitioner.

4. The reasoning given by the Labour Court shows that in the absence of any agreement between the petitioner and the respondent with regard to payment at wage of Rs.1.00 per piece, the petitioner cannot make his claim. Moreover, the other reason given by the Labour Court that the claim relating to wages falls under third schedule of the Industrial Disputes Act has to be agitated only before the Industrial Tribunal.

5. This Court is not able to find any infirmity in the said findings. The reason is that when the petitioner has not questioned the termination of his service and he had specifically admitted that he himself stopped going to work and as such when he is not asking for the reinstatement of service, nor raised any industrial dispute under Section 2(A) of Industrial Disputes Act with regard to discharge, dismissal, retrenchment or otherwise the termination of service, the claim for making backwages cannot be agitated before the Labour Court. Therefore, this Court finding no merits, inclined to dismiss the writ petition.

6. In fine, this writ petition is dismissed. No costs. However, it is open to the petitioner to work out his remedy, as per the finding given by the Labour Court, approaching the Industrial Tribunal.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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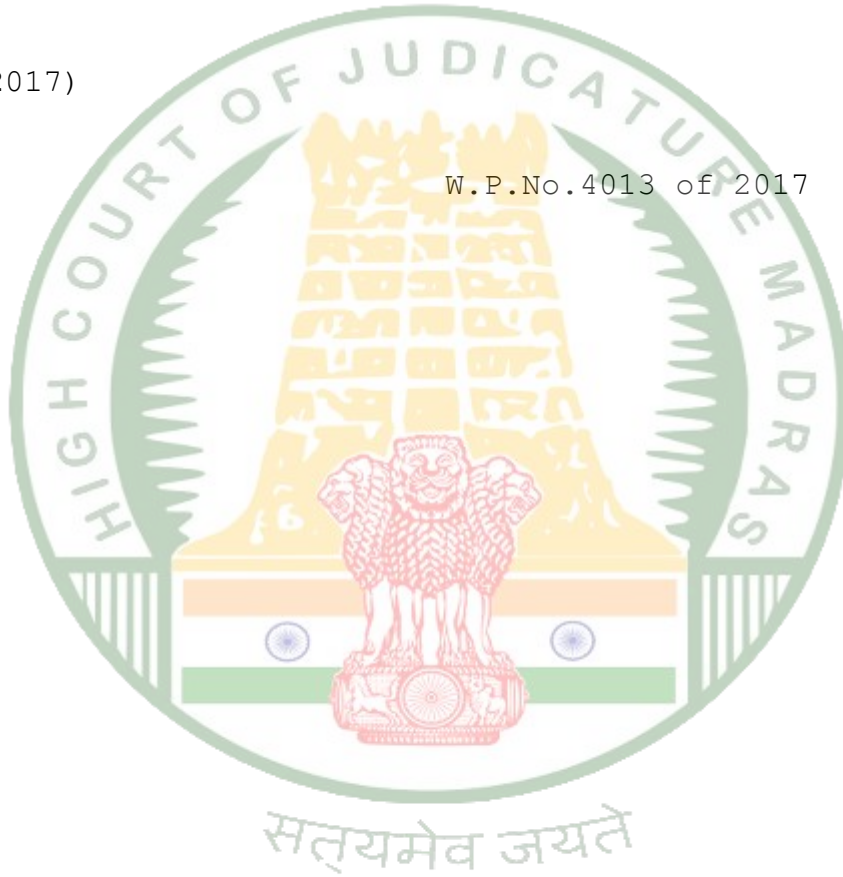
To

The Presiding Officer  
Principal Labour Court,  
Chennai - 600 104.

+lcc to Mr.R. Vinu Priyanga, Advocate, S.R.No.10536

sks (CO)  
md(16/03/2017)

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