

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.14451 of 2014

and

MP.Nos.1 & 2 of 2014

The Management,
Labcon Technology Ventures (P) Ltd.,
S.No.140/3B, Tandalam Village Post,
Sriperumbudur Taluk,
Kanchipuram District.
Rep. By its Director
Mr.V.V.N.Vardhan Kumar ... Petitioner

Vs

1.The Presiding Officer,
III Addl. Labour Court,
Chennai.

2.S.Bakyanathan ... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of certiorari to call for
the records of the first respondent dated 19.02.2014 in
I.D.No.173 of 2010, and quash the same.

For petitioner : Mr.S.Haroon
for M/s.T.S.Gopalan & Co.
For R2 : Mr.N.J.Sagayaraj
for M/s.K.Gunasekar

For R1 : Court

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O R D E R

By way of filing this writ petition, the petitioner
management seeks to quash the impugned award dated 19.02.2014
passed in I.D.No.173 of 2010 by the first respondent / the
Presiding Officer, III Additional Labour Court, Chennai, in and
by which, the Labour Court has directed the petitioner
Management to pay a sum of Rs.2,50,000/- to the second
respondent.

2. Heard the learned counsel appearing on either side.

3. The second respondent was working as a Tractor Driver with the petitioner Management. He was assigned with the job to remove the waste and garbage in the factory of Hundai. Whiles, on 04.09.2008, when the second respondent was operating the said vehicle, after the closing hours, the said vehicle was missing and that the register maintained by the Hundai Motors revealed that the second respondent took the vehicle lastly. It is also stated that after the vehicle was missing, the second respondent did not report for duty, which made the petitioner management to lodge a complaint against him about the missing of the tractor.

4. On the other side, it is the case of the petitioner Management that after the said incident, the second respondent on his own did not report for work from 05.09.2008 onwards. However, by notice dated 20.07.2008, the second respondent was advised to report for duty by the Assistant Commissioner of Labour (Conciliation - 1), Chennai. In spite of such notice, the second respondent did not report for duty.

5. It is stated in the claim petition that the second respondent was not allowed to enter in the petitioner company on 01.10.2008 and that he was informed that his employment was terminated. It is further stated that he was not paid with monthly salary for the months of August and September, 2008. Thus, he has filed a claim petition before the Assistant Commissioner of Labour, Chennai, seeking only gratuity, PF and salary for those two months. After the failure report filed by the said Assistant Commissioner of Labour, he has raised the industrial dispute before the first respondent/Labour Court, with a further direction for reinstatement.

6. The Labour Court, after hearing both parties, directed the petitioner management to pay a sum of Rs.2,50,000/- as compensation from 02.02.1998 till his last date of working i.e. on 30.09.2008. It has also further directed to pay a sum Rs.8000/- towards salary for the months of August and September, 2008, apart from directing them to pay a sum of Rs.10,500/- towards over time payment, and in toto, it has awarded a sum of Rs.2,68,500/- towards full and final settlement.

7. This Court is unable to appreciate as to how it has arrived the above said sum and it is also not further known how it has fixed a sum of Rs.10500/- towards overtime wages, especially when the second respondent has not established his case by producing relevant to substantiate the same, besides, the second respondent himself was earning only a sum of

Rs.4000/- per month. Therefore, this Court, to meet the ends of justice, deems it fit to direct the petitioner management to pay a sum of Rs.1,50,000/- to the second respondent. Learned counsel for the petitioner management has also fairly agreed for this proposal. Learned counsel for the second respondent, on taking instruction from his client / second respondent who is present in the Court, has also agreed for the said proposal.

8. Accordingly, recording the above said statement of the learned counsel for the parties, this Court hereby directs the petitioner Management to pay a sum of Rs.1,50,000/- towards full and final settlement to the second respondent within a period of one week from the date of receipt of a copy of this order. With regard to payment of PF, if the second respondent makes an application before the appropriate authority, the concerned authority is directed to consider the same in accordance with law.

9. In fine, for the reasons stated above, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Presiding Officer,
III Addl. Labour Court,
Chennai.

+1cc to Mr.K. Gunasekar, Advocate, S.R.No.7009

sk(CO)
md(15/02/2017)

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