

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.21341 of 2012

K.S.Krishnan

.. Petitioner

Vs.

1.Handicrafts and Handloom Export
Corporation Limited rep. by its
General Manager,
197, Peters Road, Royapettah,
Chennai - 14.

2.The Assistant Manager,
Handicrafts and Handloom Export
Corporation Limited,
197, Peters Road, Royapettah,
Chennai - 14.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of mandamus directing the respondents herein to pay Rs.16,23,207/- with interest at the rate of 12% p.a. till such payment to the petitioner as V.R.S. benefits.

(prayer amended vide order dated 25.08.2015 in M.P.No.1 of 2015 in W.P.No.21341 of 2012)

For Petitioner .. Mr.B.Ramamoorthy
For Respondents.. Mr.N.Sridharan

ORDER

The petitioner has approached this Court seeking the following relief:

to direct the respondents herein to pay Rs.16,23,207/- with interest at the rate of 12% p.a. till such payment to the petitioner as V.R.S. benefits.

2.The case of the petitioner is that he was originally working as contract labourer under the respondents from 1982 to 06.12.1988 on consolidated payment. On 07.12.1988, the

petitioner was appointed as Quality Controller in the second respondent factory initially for a period of one year and the same was renewed periodically till his termination in 2002. At the time of termination, the petitioner was on consolidated payment of Rs.5,000/- per month. Before his termination, the petitioner had approached this Court in W.P.No.23233 of 2001 seeking a direction to regularise his services and filed another writ petition in W.P.No.8315 of 2002, challenging the order of termination, which had taken place in 2002. Similarly placed employees have also approached this Court seeking similar prayers. This Court disposed of the writ petitions by order dated 11.09.2004. While dismissing the case of the other employees, this Court, in the above said writ proceedings, had directed the following in respect of the present petitioner is concerned:

"17..... (ii) W.P.No.23233 of 2001 and 8315 of 2002 relating to K.S.Krishnan is disposed of, directing the respondents to treat his case as having retired on voluntary retirement on the date when his services were terminated. His retirement benefits shall be calculated on the basis of the Voluntary Retirement Scheme and the amount already paid to him shall be deducted while settling his final dues."

It appears that in pursuance of the direction issued by this Court in the above said writ proceedings, the compensation amount had been paid.

3. Not satisfied with the amount of compensation paid, the petitioner approached this Court seeking a direction to the respondents for payment of Rs.16,23,207/-.

4. Upon notice, Mr.N.Sridharan, learned counsel entered appearance on behalf of the respondents and filed counter. In the counter, particularly in para 4, it has been clearly stated that as to how much due is payable to the petitioner and the same was paid after deducting the amount that was payable by the petitioner to the respondents. According to the respondents, the retirement benefits were calculated on the basis of the petitioner's last drawn salary of Rs.5,000/-. Moreover, according to the respondents, the entire calculation is based on the premise that the petitioner had treated it having worked as Technical Supervisor or Inspector, for which, he was not qualified and therefore, the basis of the calculation cannot be countenanced on fact and in law.

5. Learned counsel appearing for the petitioner would submit that the present writ petition became necessary in view of the observation made by this Court, when the petitioner moved this

Court by way of Contempt Petition No.82 of 2005. This Court, by order dated 02.09.2005, has observed that if there is any dispute in regard to the quantum payable to the petitioner, the petitioner can resort to appropriate proceedings before the Civil Court or the High Court. Since liberty was given to the petitioner, he has moved this Court by way of present writ petition.

6. After having heard the learned counsels appearing for the rival parties, this Court is of the view that the present writ petition is misconceived since there are disputed questions of fact, which cannot be adjudicated in the writ proceedings. Moreover, employment of the petitioner is concerned, the same had come to an end by the orders passed by this Court in the earlier proceedings dated 11.09.2004. In the said circumstances, the issue of what best the petitioner was entitled to, cannot be reopened at this distance of time, particularly, after the orders passed by this Court in the above said proceedings on 11.09.2004.

7. In any event, in view of the observation of this Court in contempt proceedings that it is up to the party to approach the appropriate forum without making any observation on the merits and demerits of the claim of the petitioner, it is open to the petitioner to invoke the jurisdiction of the Labour Court or the Civil Court as he may be advised. With this observation, this writ petition is closed. No costs.

8. It is made clear that it is always open to the petitioner to invoke appropriate jurisdiction in regard to his claim as against the respondents as he may be suitably advised.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1.The General Manager,
Handicrafts and Handloom Export
Corporation Limited,
197, Peters Road, Royapettah,
Chennai - 14.

2.The Assistant Manager,
Handicrafts and Handloom Export
Corporation Limited,
197, Peters Road, Royapettah,
Chennai - 14.

+ 1 cc to Mr. B. Ramamurthy, Advocate SR.50080
+ 1 cc to Mr. N. Sridharan, Advocate SR.50046

W.P.No.21341 of 2012

LRS (CO)
EU 21.08.17



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