

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.07.2017

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THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.26271 of 2012

&

M.P.No.1 of 2012

The Management,
Tractors & Farm Equipment Ltd.,
Sembium (Huzur Garden),
Chennai-600 011,
rep. by its Director & Secretary ... Petitioner

versus

1.The Presiding Officer,
Second Additional Labour Court,
Chennai.

2.Mr.Charles ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records connected with C.P.No.362 of 2004 on the file of the first respondent, i.e. the Presiding Officer, II Additional Labour Court, Chennai and quash the order dated 207.2012 made therein.

For Petitioner : Mr.S.Sivathanumohan for
Mr.S.Ramasubramaniam & Associates

For Respondent : Mr.I.Charles
No.2 (Party-in-person)

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ORDER

The petitioner has approached this Court, seeking the following relief:

"To issue Writ of Certiorari, to call for the records connected with C.P.No.362 of 2004 on the file of the first respondent, i.e. the Presiding Officer, II Additional Labour Court, Chennai and quash the order dated 207.2012 made therein."

2. The second respondent was employed as semi-skilled machine operator in the petitioner's factory. He was issued with a charge sheet on 16.3.1981 for his alleged mis-behaviour towards his Supervisor having abused in filthy language. An enquiry was conducted, wherein, he was found guilty of the charges levelled against him and thereafter, by proceedings dated 16.3.1981, he was dismissed from service. Aggrieved by the same, the second respondent/workman raised an industrial dispute vide I.D.No.73 of 1982 on the file of the I Additional Labour Court, Chennai. The Labour Court, vide award dated 07.11.1984 rejected the dispute. Challenging the same, the second respondent filed a writ petition in W.P.No.9342 of 1987 before this Court. By order dated 08.06.1993, this Court while allowing the Writ Petition, directed the petitioner management, to reinstate the second respondent without back wages. Challenging the order 8.6.1993 passed by the learned single Judge, the petitioner management preferred a writ appeal in W.A.No.711 of 1993. During the pendency of the appeal, the second respondent was paid Rs.4,200/- in compliance with the payment of last drawn wages. The Division Bench, by judgment dated 24.7.1997 while allowing the Writ Appeal, modified the order of the learned single Judge into one of lump sum compensation in a sum of Rs.75,000/- payable by the petitioner management to the second respondent/workman in lieu of reinstatement.

3. Thereafter, the second respondent filed a claim petition in C.P.No.362 of 2004 under Section 33(C)(2) of the I.D.Act, claiming Rs.16,80,770/- towards Provident Fund, Bonus, Incentive Bonus, Overtime, encashment of leave salary, yearly increment, house rent, medical allowance and uniform and shoes allowance, for total period from 16.03.1981 to 22.08.1999, i.e. from the date of his dismissal till the date of superannuation. Resisting the claim made by the second respondent, the petitioner management filed a counter statement and also let in evidence both oral and documentary before the first respondent Labour Court.

4. In the counter affidavit filed before the Labour Court, the Management had specifically raised a plea of maintainability of the Claim Petition filed by the second respondent/workman in view of the order passed by the learned Division Bench of this Court, ordering compensation as full and final settlement in lieu of reinstatement. The Division Bench while ordering the compensation, has confirmed the order of dismissal from service and therefore, other than the statutory entitlement like, PF and Gratuity, the second respondent/workman was not entitled to any other benefits as if he was in service during the period of his non-employment.

5. Upon consideration of rival claims as well as the evidence let in by the parties, the first respondent Labour Court, vide order dated 20.7.2012, allowed the claim petition in

part while directing the petitioner management to pay a sum of Rs.4,69,000/- towards terminal benefits. The said order of the first respondent Labour Court has been put under challenge in this Writ Petition.

6. Shri S.Shivathanumohan, learned counsel appearing for the petitioner would strongly contend that the claim petition filed by the second respondent/workman was completely misconceived and cannot be maintained in law. Although a specific plea has been raised by the petitioner/management as to the maintainability of the claim petition, the same has been overlooked by the first respondent/Labour Court and allowed the claim of the second respondent/workman in part. According to the learned counsel, the Labour Court has completely misdirected itself as if the second respondent/workman was entitled to other benefits in addition to PF, Gratuity, etc., and therefore, proceeded to compute the same in favour of the second respondent/workman. The final order passed by the Labour Court is vitiated by non-application of mind on the part of the Labour Court in allowing the claim of the second respondent/workman in part. The Labour Court has completely misread the situation and not appreciated the order passed by the learned Division Bench of this Court in granting a lump sum compensation in lieu of reinstatement by giving a quietus to the entire issue as between the petitioner/management and the second respondent/workman. In such a scenario, there is no scope for reopening the matter at the instance of the second respondent/workman for getting any additional benefits other than statutory benefits, like PF, Gruatuity, etc., as if the workman had been in employment during the period when he was dismissed from service, which has been ultimately confirmed by the learned Division Bench of this Court.

7. In the said circumstances, the learned counsel appearing for the petitioner/management has rightly contended that the order of the Labour Court for payment of Rs.4,69,000/- towards benefits, viz., bonus, incentive bonus, leavy salary, night shift, yearly increment, house rent, medical allowance, uniform and shoes allowance, is liable to be interfered with as the order of the Labour Court suffers from the error apparent on the face of the record.

8. The Labour Court failed to appreciate that such a claim made by the second respondent/workman in view of the lump sum compensation ordered to be paid to the workman which amount has been admittedly paid to the workman, cannot be entertained since such claim is not only mischievous but also frivolous and unfounded. Unfortunately, the Labour Court has completely erred in entertaining the claim petition at the instance of the second respondent/workman as though he was in employment during the period when he was factually dismissed from service, which punishment was also upheld by the Labour Court as well as the learned Division Bench of this Court.

9. Although the second respondent who appeared party-in-person, attempted to impress upon this Court that his claim before the Labour Court was in order and the same was validly made, but this Court is unable to persuade itself as to how such a claim can ever be entertained in law in view of the facts and circumstances as set above.

In the light of the above, this Court has no hesitation in allowing the Writ Petition and accordingly, it is allowed. The impugned order passed by the first respondent/Labour Court in C.P.No.362 of 2004, dated 20.7.2012 is set aside. No costs. Consequently, connected MP is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

suk

To

The Presiding Officer,
Second Additional Labour Court,
Chennai.

+lcc to Mr.S.Ramasubramaniam & Associates, Advocate,
S.R.No.48511

W.P.NO.26271 OF 2012

SJ(CO)
CA(31/08/2017)

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