

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2017

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33294 of 2003

P.Baskaran

... Petitioner

Vs.

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

2. M/s. Trident Investment and Portfolio
Services Pvt. Ltd.,
No.4, 4th Main Road,
United India Colony, Kodambakkam,
Chennai - 600 024.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorari to call for the records from the files of the first respondent in I.D.No.381 of 1998 and quash its impugned Award dated 04.06.2003 insofar as the first respondent has negatived the claim of the petitioner for reinstatement in service, with continuity of service, with back wages and with all other attendant benefits.

For Petitioner : Mr.K.M.Ramesh

For Respondents : Mr.S.Jayaraman for R2

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O R D E R

The petitioner has filed this writ petition seeking issuance of writ of Certiorari to call for the records from the files of the first respondent in I.D.No.381 of 1998 and to quash the impugned Award dated 04.06.2003 insofar as the first respondent has negatived the claim of the petitioner for reinstatement in service, with continuity of service, with back wages and with all other attendant benefits.

2.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent.

3.The learned counsel appearing for the petitioner would submit that the retrenched employee raised Industrial Disputes under Section 2 (A) (2) of the Industrial Disputes Act, 1947, on the ground that the petitioner raised a charter of demands on behalf of the workmen. Since the petitioner acted against the management, the management vindictively taken action against the employees. Accordingly, 19 workmen were illegally retrenched from the trade union activities. Accordingly, the petitioner raised the Industrial Disputes as against the retrenchment and he denied the settlement arrived by the management in favour of the petitioner as full and final settlement as Rs.15,000/- and odd, and the same was not encashed by him. Accordingly, he is challenging the award passed by the labour Court.

4.Per Contra, the learned counsel appearing for the second respondent would submit that since the company is facing financial difficulties and it is impossible for the management to run the office with nearly 36 employees, the second respondent has no other alternative and hence retrenched 20 employees, as per the condition laid down under Section 25-F of the Industrial Disputes Act. Accordingly, the tenor of Section 25-F is complied with and all the retrenched employees were paid compensation. The petitioner was also paid a sum of Rs.15,031/-.

5.The learned counsel appearing for the second respondent further submitted that the High Court while exercising its power under Article 226 of the Constitution of India is not an appellate authority to sit over the fact finding authority, unless the order of the fact finding authority is perverse or arbitrary and warrants interference. In support of his contentions, he relied upon the decision of the Hon'ble Supreme Court reported in (2005) 3 SCC 193 (Management of Madurantakam Coop.Sugar Mills Ltd. Vs. S.Viswanathan).

6.The undisputed facts are that the petitioner was employed as Programme Assistant. Since the company is finding it difficult to run the day to day office, the Programmer job is no longer required. Accordingly, the petitioner and other persons were retrenched and all the persons received their compensation and the other persons did not raise any Industrial Disputes. However, the petitioner raised Industrial Disputes.

7.It is useful to extract the relevant portions of the decision of the Hon'ble Supreme Court reported in (2005) 3 SCC 193 (Management of Madurantakam Coop.Sugar Mills Ltd. Vs.

S.Viswanathan) hereunder:

"Normally, the Labour Court or the Industrial Tribunal, as the case may be, is the final court of facts in these types of disputes, but if a finding of fact is perverse or if the same is not based on legal evidence the High Court exercising a power either under Article 226 or under Article 227 of the Constitution can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is necessary that the writ court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect in the order of the Labour Court the writ court will not enter into the realm of factual disputes and finding given thereon. A consideration of the impugned order of the learned Single Judge shows that nowhere has he come to the conclusion that the finding of the Labour Court was either perverse or based on no evidence or based on evidence which is not legally acceptable. Learned Single Judge proceeded as if he was sitting in a court of appeal on facts and item after item of evidence recorded in the domestic enquiry as well as before the Labour Court was reconsidered and findings given by the Labour Court were reversed. We find no justification for such an approach by the learned Single Judge which only amounts to substitution of his subjective satisfaction in the place of such satisfaction of the Labour Court."

8. From the perusal of the above decision, it is clear that High Court cannot interfere with the order of the Labour Court unless that order is perverse or arbitrary or there is error on the face of record. Hence, I am not inclined to interfere with the order passed by the first respondent.

9. Now, both the learned counsel agreed to confirm the Labour Court Award. Since, the learned counsel appearing for the petitioner would submit that the petitioner has not encashed the compensation he received, till date and the management/second respondent is also ready and willing to pay the compensation in favour of the workman/petitioner, accordingly, liberty is granted to the petitioner to recover the amount from the management.

10.With the above observations, the writ petition is dismissed. No costs.

Msvm

sd/
ASSISTANT REGISTRAR

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SUB-ASSISTANT REGISTRAR

To

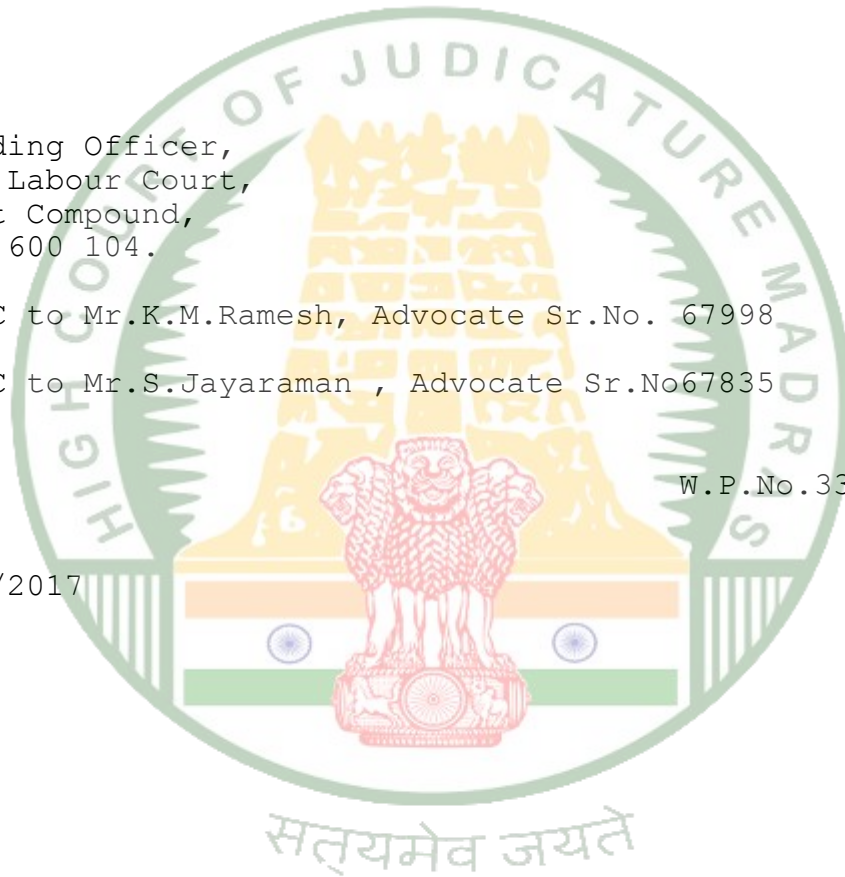
The Presiding Officer,
Principal Labour Court,
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Chennai - 600 104.

+1 CC to Mr.K.M.Ramesh, Advocate Sr.No. 67998

+1 CC to Mr.S.Jayaraman , Advocate Sr.No67835

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GMI (CO)
MLT 14/11/2017



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