



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.155 of 2014

C.T.Abraham

... Petitioner

vs.

1.The Presiding Officer,
The Labour Court,
Thirunelveli.

2.Coats Viyella India Ltd,
Rep by its Personal Manager,
Ambasamudram,
Tirunelveli District.

... Respondents

Prayer : Writ Appeal is filed under Clause 15 of Letters Patent Act, to set aside the order in W.P(MD).1105 of 2007, dated 28.10.2011 by allowing this appeal and to quash the orders of the first respondent in Claim Petition No.60 of 1997 and consequently direct the second respondent to pay the balance compensation amount of Rs.55,000/- with interest at the rate of 12% per annum from the date of presentation of the above claim petition.

Prayer in WP(MD)No.1105/2007:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent Court, Tirunelveli in Claim Petition No.60 of 1997 and quash the same as devoid of merits by allowing this Writ petition and direct the 2nd respondent to pay the balance compensation amount of Rs.55,000/- with interest at the rate of 12% per annum from the date of presentation of the above Claim petition.

For Petitioner
For Respondents

: Mr.S.Jawaharlal
: Mr.G.Venugopal
for Mr.M.P.Senthil for R2.
: Court

J U D G M E N T

(Judgment of the Court was delivered by G.R.SWAMINATHAN, J.,)

The instant writ appeal has been filed questioning the order dated 28.10.2011 made in W.P(MD).1105 of 2007.

2.The aggrieved writ petitioner had earlier filed claim petition No.60 of 1997 before the Labour Court, Thirunelveli. The writ petitioner contended that he was employed as a Security Guard in the engineering department from 20th May 1965 to 08th April 1996 in the second respondent mill.

3.According to the writ petitioner, his resignation letter was obtained by assuring him that he would be paid a sum of Rs.01.00 Lakh, but that he was issued with a cheque only for a sum of Rs.45,000/-. Since, the second respondent mill management did not act in terms of the promise held out to him, he was constrained to file C.P.No.60 of 1997 for recovery of Rs.55,000/- with interest.

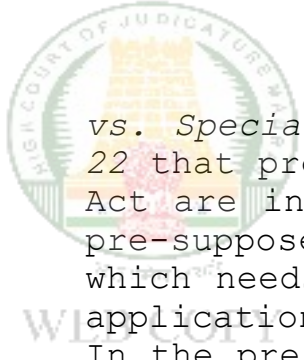
4.The second respondent herein filed a counter contesting the claim made by the writ petitioner.

5.According to the mill management, the writ petitioner was entitled to a sum of Rs.45,000/- only as per the voluntary retirement scheme. The other allegations made against the mill management were denied. The claim of the writ petitioner was strongly contested and the second respondent herein specifically contended that the claim petition itself was not maintainable.

6.The Labour Court, Thirunelveli, by an order dated 10.05.2002, dismissed the claim petition filed by the writ petitioner under section 33 (C) (2) of the Industrial Disputes Act, 1947. Aggrieved by the dismissal of the petition, the writ appellant herein filed W.P.(MD).No.1105 of 2007. The writ petition also met the same fate by the impugned order, dated 28.10.2011. The appellant herein has come up before the Division Bench, challenging the order made by the learned single Judge.

7.Heard the learned counsel for the appellant as well as the learned counsel appearing for the second respondent mill management.

8.The writ appeal is liable to be dismissed in view of the <https://hcservices.ecourts.gov.in/hcservices/> the proceeding filed under section 33 (C) (2) of the Industrial Disputes Act, 1947. It has been held in *D.Krishnan*



vs. Special Officer, Vellore Co-operative Sugar Mill - 2008 7 SCC 22 that proceedings under section 33 (C) (2) of the Act are in the nature of execution proceedings. Such proceedings pre-suppose some adjudication leading to determination of a right which needs to be enforced. If there is a dispute or contest, an application or petition under section 33 (C) (2) would not lie. In the present case, the mill management has strongly disputed the very entitlement of the appellant workman. Therefore, the Labour Court as well as the learned single Judge of this Honourable Court were right in dismissing the claim raised by the appellant herein.

9.Yet another reason which persuades us to dismiss the writ appeal is that the appellant herein accepted the cheque for Rs.45,000/- given by the mill management and also submitted his resignation. After accepting the benefit and the voluntary retirement scheme introduced by the mill management, it is not open to the workman to turn around and raise a disputed claim. The conduct of the workman clearly estops him from doing so.

10.For the above said reasons, we find no merit in the writ appeal. Accordingly, the writ appeal stands dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

The Presiding Officer,
The Labour Court,
Thirunelveli.

+One cc to Mr.M.S.Jawaharlal, Advocate, SR.No.63266

+One cc to Mr.M.P.Senthil, Advocate, SR.No.63268

skm/arul

RL/4C/3P/SV/SAR2/20/7/2017

W.A(MD)No.155 of 2014