



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1152 of 2015
and
M.P.(MD).Nos.1 and 2 of 2015

S.Thangamalai : Appellant

Vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.Management,
Urappanur Primary Agriculture Co-operative Bank,
Urappanur, Thirumangalam Taluk,
Madurai District. : Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 31.08.2015 made in W.P.(MD).No.10616 of 2012, on the file of this Court.

Prayer in WP(MD).10616/2012:

Writ petition is filed under Article 226 of the Constitution of India,praying this Court to issue a Writ of Certiorarified Mandamus,calling for the records of the 1st respondent in C.P.No.116 of 2010 and quash his order dated 29.02.2012 and to direct the 2nd respondent to pay to the petitioner, a sum of Rs.2,06,025/- towards wages for the period from 01.06.2007 to 31.08.2010 with interest and cost.

For Appellant : Mr.S.Thangamalai
Party-in-person

For Respondent No.2 : Mr.R.Saravanan

JUDGMENT

[Judgment of the Court was made by **R.SUBBIAH, J.**]

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The present Writ Appeal has been filed as against the order,

dated 31.08.015, made in W.P.(MD).No.10616 of 2012.

2. The said Writ Petition was filed by the appellant herein challenging the order passed by the first respondent - Labour Court, Madurai, dated 29.02.2012, made in C.P.No.116 of 2010 and for a direction to the second respondent to pay a sum of Rs.2,06,025/- towards wages for the period from 01.06.2007 to 31.08.2010 with interest and cost.

3. The facts and circumstances, which necessitated the appellant to file the said Writ Petition, are that the appellant herein was a Salesman in a Fair Price Shop, under the second respondent, for nearly 14 years. He was dismissed from service on 31.10.1994, based on certain allegations. Challenging the same, the appellant herein filed I.D.No.73 of 1995. After the trial, the Labour Court, Madurai, passed an Award dated 31.08.2006, directing the second respondent to reinstate the appellant in service with continuity of service, without back wages. As against the said order, the second respondent has not preferred any appeal. Therefore, the Award passed by the Labour Court, dated 31.08.2006, has become final.

3.2. Even after the passing of the Award by the Labour Court, the second respondent did not provide employment to the appellant. Therefore, the appellant filed a petition in Na.Ka.No.283 of 2007, before the Labour Officer, Madurai, seeking a direction to the second respondent to provide employment, in terms of the Award passed by the Labour Court, in I.D.No.73 of 1995, dated 31.08.2006. The appellant also submitted a written representation to the second respondent, on 23.12.2006, seeking employment with continuity of service, in terms of the Award passed by the Labour Court, Madurai. The Special Officer, additional in charge of the second respondent, by his letter dated 20.03.2007, advised the appellant to approach the Higher Officer for reinstatement in service. However, during the pendency of the said proceedings, the second respondent passed an order dated 06.08.2007, with a direction to report duty, without mentioning the place of service. Immediately, thereafter, the appellant contacted the second respondent, on 09.08.2007 and 10.08.2007 personally, with a request to issue proper order, mentioning the place of service, so as to enable him to join duty. The Labour Officer had also issued a direction to the second respondent to issue proper order to the appellant, mentioning the place of work.

3.3 Since the claim of the appellant was not considered, he was constrained to file C.P.No.66 of 2007, before the first respondent seeking to grant back wages for a period of nine months, from 31.08.2006 to 31.05.2007. The first respondent, by order dated 09.09.2008, passed an ex-parte order. But, in spite of the said ex-parte order, the second respondent did not provide employment to the appellant, in terms of the Award passed by the



Labour Court, in I.D.No.73 of 1995, dated 31.08.2006.

3.4. Under the said circumstances, the appellant was constrained to file yet another Claim Petition under Section 32(C) of the Industrial Disputes Act, 1947, claiming a sum of Rs.2,06,025/- towards wages for the period from 01.06.2007 to 31.08.2010. The said Claim Petition, by order dated 29.02.2012, came to be dismissed by the Labour Court, Madurai, the first respondent herein. Questioning the correctness of the order passed by the Labour Court, Madurai, the appellant filed W.P.(MD). No.10616 of 2016, which was dismissed by the learned Single Judge, on 31.08.2015. Challenging the said order, the present Writ Appeal has been filed.

4. We have heard the appellant, who appeared as party-in-person and the learned counsel appearing for the second respondent. Keeping in mind the above submissions made on either side, we have perused the materials available on record, particularly, the Award passed by the Labour Court, dated 29.02.2012, made in C.P.No.116 of 2010. A perusal of the Award passed by the Labour Court would go to show that right from the year 2007, the second respondent sent various communications to the appellant to come and join duty. However, in spite of the above communications sent by the second respondent, it is the appellant, who has not come forward to join duty. On the other hand, it appears that by making various allegations as against the management, he has failed to join duty. Under such circumstances, we are of the considered view that the order passed by the learned Single Judge does not require for any interference at the hands of this Court, as the learned Single Judge, on a careful

consideration of all aspects, as narrated above, dismissed the Writ Petition.

5. In the result, the Writ Appeal is dismissed and the order dated 31.08.2015 made in W.P.(MD).No.10616 of 2012, is affirmed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS I)

/True copy/

Sub Assistant Registrar



To

1.The Presiding Officer,
Labour Court, Madurai.

+1 cc to Mr.R.Saravanan,Advocate,SR.No.320

+1 cc to Mr.S.Thangamalai Party in Person,Sr.No.327

nb

AAM:SKN-MM:4p/4c/31.01.2017

**JUDGMENT MADE IN
W.A. [MD] .No.1152 of 2015
03.01.2017**