

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.03.2018

CORAM :

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA.No.1645 of 2012

T.Loganathan

.. Appellant/Petitioner

Vs.

1.MRF Limited
Rep by its Chairman & Managing Director,
No.124, Greams Road,
Chennai-6.

2.The Special Deputy Commissioner of Labour,
(Appellate Authority under Tamil Nadu shop
and Establishment Act 1947) Chennai -6.

.. Respondents/Respondents

PRAYER : Appeal is filed under clause 15 of Letters patent, to
set aside the order dated 21.11.2011 made in WP.No.11768 of 2009.

WP.NO.11768 of 2009:

Writ Petition filed Under Article 226 of the Constitution of
India, praying for the issuance of Writ of Certiorarified
Mandamus to call for the records of the 2nd respondent herein
pertaining to the impugned order in TSE No. I.I.A. No.36/2006 in
T.S.E. No.1.17 of 2006 dated 28.11.2007, passed by the 2nd
respondent and quash the same and consequentially directing the
2nd respondent herein to hear the above Appeal and pass orders
on merits in accordance with law.

For appellant : Mr.N.Janakiram

For respondents: Mr.V.Sanjaymohan
for M/s.Ramasubramanian Associates.

JUDGMENT

P. VELMURUGAN, J.

This appeal is filed against the order dated 21.11.2011 made in WP.No.11768 of 2009.

2. The case of the appellant is that he was appointed as Supervisor-Security in the first respondent company. By order dated 30.12.1989, the appellant's service was confirmed. The appellant was ultimately promoted to MB3 Grade. It is stated that post was redesignated as Senior Officer - Security. The contract of employment of the appellant was later terminated and alongwith the said order, a cheque being one month salary in lieu of notice was enclosed. As against the said order, an appeal has been filed before the Appellate Authority under the Tamil Nadu Shops and Establishment Act, 1947 (herein after referred to as "Shop Act") under Section 41(2) of the Shop Act.

3. Before the Appellate Authority, the respondent/Management filed TSE.No.I.IA.36 of 2006 in TSE.No.I.17/2006 questioning the maintainability of the claim under the Shop Act. The appellate authority after hearing both sides dismissed the appeal filed by the respondent as not maintainable.

4. Feeling aggrieved by the order of the appellate authority, the appellant filed a writ petition before this Court in WP.No.11768 of 2009. The learned single judge after hearing the arguments of both sides, dismissed the writ petition.

5. Aggrieved against the order passed by the learned single judge in WP.No.11768 of 2009 dated 21.11.2011, the appellant preferred the present writ appeal.

6. During the course of arguments, we have mooted a suggestion for settlement, taking into account the fact that the appellant has already attained the age of superannuation. The learned counsel for the first respondent fairly submitted that he would advice the Management to settle the matter amicably, taking into account the pendency of the litigation since 2006.

7. Today, when the matter is taken up for hearing both the learned counsel for the parties produced a Memorandum of Agreement dated 28.03.2018 signed by both the parties. The parties have agreed to settle the matter. The appellant will be paid a sum of Rs.10,70,000/- in full and final settlement of all his claims. The first respondent/Management agreed to pay the said amount to the appellant on or before 06.04.2018. The appellant would be permitted to withdraw the provident fund accumulation to his credit as on date.

8. Since the payment is towards settlement of wages, consequent to the resolution of dispute, there is no need to deduct TDS.

9. Recording the memorandum of agreement entered into between the parties, the writ appeal is disposed of. The Memorandum of agreement dated 28.03.2018 shall form part of the judgment. No costs.

*Enclosed Xerox copy of the Memorandum of agreement dated 28.03.2018

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

tsh

To

1.The Special Deputy Commissioner of Labour,
(Appellate Authority under Tamil Nadu shop
and Establishment Act 1947) Chennai -6.

+ 1 cc to Mr.N.Janakiraman Advocate,SR.24230

+ 1 cc to M/s.Ramasubramanian Advocate,SR.24566

WA.No.1645 of 2012

cnr(co)
nr 26/04/2018

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