

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21669 of 2012

and

M.P.Nos.1, 2 of 2012

Mr.N.Gunasekaran ..Petitioner

Vs.

1.The Deputy Commissioner of Labour,
The Authority under Workmen Compensation Act,
Conoor, Nilgiri District.

2.Smt.Pappathi .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records pursuant to the order passed by the 1st respondent dt. 01.09.2011 in I.A.No.13 of 2011 and I.A.No.23 of 2011 in W.C.No.6 of 2009, quash the same in so far as it is concerned with the order passed in I.A.No.13 of 2011 only and consequently direct the 1st respondent to dispose the W.C.No.6 of 2009.

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Mr.J.Ramesh for R1
Additional Government Pleader

Mr.V.Chinnasamy for R 2

O R D E R

The present writ petition is filed challenging the order passed by the 1st respondent on 01.09.2011 in I.A.Nos.13 & 23 of 2011 in W.C.No.6 of 2009.

2.The learned counsel appearing on behalf of the writ petitioner states that the award of compensation was granted by the 1st respondent in W.C.No.6 of 2009 dated 12.08.2010. however, the said order was passed without hearing the writ

petitioner. The learned counsel for the petitioner states that it is an exparte award, and therefore, the subsequent interlocutory application filed to set aside the exparte award ought to have been considered by the 1st respondent. There was a delay in filing the petition to set aside the exparte order also. Both the interlocutory applications filed to set aside the exparte order and to condone the delay in filing the petition to set aside the exparte orders were dismissed. Challenging these orders, the present writ petition is filed.

3.The learned counsel appearing on behalf of the respondent states that once an award is passed, then the writ petitioner has to prefer an appeal under the appropriate provision of law. Therefore, the writ petition is liable to be rejected. This Court is of an opinion that Section 30 of the Employees Compensation Act provides appeal against an award to be filed before the High Court by raising appropriate question of law. In this regard, the writ petitioner has to file an appeal under Section 30 of the Employees Compensation Act. If the writ petitioner is aggrieved from and out of the subsequent order that was also to be adjudicated in the appeal to be filed challenging the award passed under the provisions of the Workmen Compensation Act.

4.This Court is of an opinion that once an award is passed whether it is after hearing the parties or not. The award is under the provisions of the Workmen Compensation Act, then the provision for an appeal under Section 30 of the Employees Compensation Act to be pressed into service. Thus, an award passed should be challenged in the manner known to law, and no writ petition can be entertained under Article 226 of the Constitution of India. Further, the employees Compensation Act is a welfare legislation, and the employees, who are all victims cannot be allowed to wait for many years for the purpose of getting the compensation. Speedy grant of award is also an object sought to be achieved always on these welfare legislations. Thus, once an award is passed by the Competent Authorities under the provisions of the Workmen Compensation Act, an appeal has to be filed after depositing the entire award amount by a person, who prefers to file an appeal.

5.In these circumstances, the writ petition cannot be entertained and the matter cannot be allowed to be prolonged for an unspecified period on these grounds. Accordingly, the writ petitioner at liberty to file an appeal under the appropriate provisions of the Employees Compensation Act. Meanwhile, the Workmen is also entitled to claim the award amount in the manner prescribed under law.

6. Accordingly, the writ petition cannot be entertained by this Court, and stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Deputy Commissioner of Labour,
The Authority under Workmen Compensation Act,
Conoor, Nilgiri District.

+1 C.C. to The Government Pleader, High Court Madras
SR.NO. 29992

C.C. to M/S. G.B.Saravanabhavan Advocate SR.NO. 29834

W.P.No.21669 of 2012

PPA (CO)
VS 11.05.2018

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