

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.08.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.1972 of 2013
and M.P. No.1 of 2013

The Management,
No.K.327, Chinnaveerampatti,
Primary Agricultural Thrift Society
Chinna Veerampatti,
Pukkulam (Post),
Udumalpettai (Taluk). ... Appellant/Respondent

-vs-

T.Panchalingam ... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 1 of Civil Procedure Code against the award dated 22.02.2013 passed by the Labour Court, Coimbatore in Computation Petition No.105 of 2009.

For Appellant : Mr.H.Manojin

For Respondent : Mr.S.Lakshmanasamy

JUDGMENT

The appeal has been filed challenging the Award dated 22.02.2013 passed by the Labour Court, Coimbatore in Computation Petition No.105 of 2009.

2.Learned counsel appearing for the appellant, assailing the impugned order, pleaded that the respondent Panchalingam was employed as Office Assistant from 01.06.1982 and he resigned his job on 01.04.2007 and his resignation was also accepted by the appellant Society and thereafter, he was relieved with effect from 01.04.2007. Raising some untenable allegations against the appellant society that they did not settle his salary for 11 months from October 2004 to August 2005 and they failed to pay the Gratuity amount of Rs.67,634/- and Provident fund amount of Rs.1,50,075/-, the respondent has filed a Computation Petition No.105 of 2009 before the Labour Court, Coimbatore under Section 33 C(2) of the Industrial Disputes Act, 1947 to compute the

amount due to him at Rs.2,17,286/- with a direction to the appellant to pay the said amount with interest at the rate of 18% per annum. Learned counsel appearing for the appellant would further submit that as per Ex.M7 Pay Bill, the respondent has received 11 months salary from October 2004 to August 2005, but the same has been disbelieved by the Labour Court which is untenable and unacceptable.

3.Secondly, since the appellant is agreeable to pay the gratuity amount of Rs.67,634/-, the respondent can collect the same at any point of time from the appellant. Insofar as the Provident Fund amount of Rs.1,50,075/- is concerned, the respondent has to approach and collect the same from the Provident Fund office at Coimbatore. But the Labour Court has allowed the Computation Petition directing the appellant to pay the entire amount namely, Rs.2,17,286/- to the respondent along with Rs.1,000/- being the costs of the litigation.

4.In support of his claim, producing before this Court the Pay Bill marked as Ex.M7, showing that the respondent has received the salary from October 2004 to August 2005 for a period of 11 months and by referring the page Nos.86, 93 to 99, learned counsel appearing for the appellant pleaded that without considering the above said Pay Bills, the Labour Court rejecting the case of the appellant, accepted the claim of the respondent and therefore, the same is liable to be set aside.

5.Learned counsel appearing for the respondent would submit that when the respondent relieved from the post of Office Assistant on 01.04.2007, accepting the resignation letter with effect from 01.04.2007, the appellant did not come forward to settle the salary arrears. In spite of letters dated 20.10.2008 and 04.12.2008 addressed by the respondent to the Society and to the Chief Ministers Cell regarding monetary benefits, the appellant did not come forward to settle the salary arrears, provident fund and gratuity. When it is an admitted case that the respondent having served as Office Assistant, tendered his resignation on 01.04.2007, the arrears of salary, gratuity and Provident Fund to be paid by the appellant. As they have failed to discharge their legal obligation, the respondent was under the compelling circumstance to approach the Labour Court with the Computation Petition and therefore no interference is called for.

6.A perusal of Ex.M7 Salary Register clearly shows that salary from October 2004 to August 2005 has been disbursed not only to the respondent and also to one S.Arumugam, Kannaiya Kumar and K.Eswaran by the appellant. Page Nos.86, 93 to 99 of the said register would show the signatures appended by the aforementioned persons on the revenue stamps. Therefore, this

Court accepting the case of the appellant, is inclined to interfere with the Computation Petition. Since the learned counsel appearing for the appellant fairly submitted that the respondent can collect the gratuity amount from the appellant, it is for the respondent to collect the same. Accordingly, the impugned order is set aside and the appeal is partly allowed.

7.The appellant is hereby directed to give No Objection Certificate for making the claim of the Provident Fund amount from the Provident Fund Authority within a period of two weeks from the date of receipt of a copy of this order. On receipt of the No Objection Certificate, the respondent can work out his remedy by approaching the Provident Fund Authority, Coimbatore. With regard to the payment of interest, this Court, directs the appellant to pay the interest at the rate of 12% per annum, from January to March 2007 and for the gratuity amount within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected M.P. is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

Vga

TO

The Presiding Officer,
Labour Court,
Coimbatore.

C.M.A. No.1972 of 2013
and M.P. No.1 of 2013

MG (CO)
GN (17/10/2019)

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