



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.10.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.11731 of 2009

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- 1.A.R.Veeriah
- 2.C.Durai Raj
- 3.G.Nagaiah
- 4.R.Dilly
- 5.P.Eganathan(died)
- 6.R.Periasamy
- 7.S.Palaniappan
- 8.P.Kasi(died)
- 9.V.Raghavan(died)
- 10.U.S.Subbiah
- 11.L.Subramanian

C/o.L.Subramanian,
42/21, Nadapaya thottam,
Thiruvottiyur,
Chennai - 600 019

..Petitioners

Vs.

- 1.The Management of
Corborandum Universal Limited,
Chennai - 600 009

- 2.Presiding Officer,
The II Addl.Labour Court,
Chennai.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in I.D.No.522/95 to I.D.No.532/95 orders dated 16.06.2008, on the file of II Addl.Labour Court, Chennai and quash the same and thus render justice.

For Petitioner : M/s.Usha Ramman

[For P1 to P10]

For P11 - Party-in-person

[No appearance]



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For Respondents : Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co
[For R1]

R2 - Labour Court

O R D E R

The Award dated 16.06.2008 passed in I.D.No.522/95 to I.D.No.532/95 are under challenge in the present writ petition.

2. The petitioners state that they were employed for the period from the year 1966 to 1975. The respondent Management retrenched 81 employees on 22.09.1975 without any information. The Retrenchment was effected during the emergency period and the employees submitted a representation to the Governor of Tamil Nadu on 16.04.1976, to reinstate them to services with back wages. The representation was forwarded to the Conciliation officer and the respondent Management entered appearance and filed their reply. The Management failed to produce the records in relation to the services of the writ petitioners including Attendance Registers and other records. The Conciliation proceedings ended in failure and a failure report was submitted on 12.06.1981. Thereafter, the Government issued an order, rejecting the claim of the workmen to refer the matter for adjudication.

3. Thereafter, on 14.12.1985, the claim petitions were filed under Section 33(C)(2) of the Industrial Disputes Act, claiming retrenchment compensation, notice pay and other dues. The Claim petition was numbered as CP.No.144/1985. The Labour Court dismissed the claim petition on 17.05.1988. Challenging the said order of the Labour Court, the workman filed writ petition in W.P.No.14742 of 1988. The matter was remanded back to the Labour Court for fresh adjudication and the Labour Court, after remand, passed an order, computing the dues of the workmen.



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4. On 02.08.1993, a Legal Notice was sent, calling upon the Management to settle the dues of the workmen as per the order dated 19.04.1993 passed in C.P.No.144/1985. On 12.01.1994, the Management settled the dues as computed by the Labour Court. The 15 workmen including the petitioners received the Retrenchment compensation in Full and Final settlement of their dues from the respondent Management. After receiving the Full and Final settlement, the workmen raised a dispute under Section 2A of the Industrial Disputes Act on 14.07.1994. On 16.09.1994, a Failure Report was issued by the Conciliation Authority. Thereafter, the workmen raised an Industrial Dispute in I.D.No.522 & 532 of 1995 before the Labour Court, Chennai on 17.10.1995.

5. Challenging the Industrial Dispute, the Management filed W.P.No.773 of 1996, 5336 to 1062 of 1996 on 22.01.1996. The writ petitions filed by the Management were disposed of by the High Court, directing the Labour Court to decide the preliminary issue of maintainability of the Industrial Dispute. The Second Additional Labour Court, on 15.09.2006, passed an order, dismissing the preliminary issue raised by the Management and holding that the Dispute is maintainable. Again, the Management filed W.P.No.3749/2007 against the order of the Labour Court, holding the dispute to be maintainable. The writ petition filed by the Management was allowed by the High Court on 17.12.2007 on the following grounds:

(i) As early as 1981, the Government had declined to refer the dispute and the refusal of the Government has not been challenged by the concerned workmen.

(ii) Thereafter, after accepting the cessation of employment, the workmen had filed claim petition as early as 1985 for: notice pay, compensation, leave salary etc., The same signifies their acceptance of cessation.

(iii) After computation by Labour Court, the concerned workmen had received the amounts computed by the Labour Court in Full and Final settlement of their claims.

(iv) Delay of 20 years in raising the dispute before the Labour Court.

(v) More than 32 years since the alleged



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cessation of employment, accepting retrenchment they had received retrenchment compensation etc and they had all attained the age of superannuation. Hence, the question of payment of any further wages would not arise.

- The Learned Judge further directed the Management to pay a sum of Rs.10,000 within a period of two weeks.
- The Management has complied with the said direction of the Court.

6. However, the High Court directed the Management to pay a sum of Rs.10,000/- within a period of two weeks. The Management has complied with the said direction of the Court. Again, Review petitioner filed writ appeal against the order passed in the writ petition and the Hon'ble Division bench of this Court dismissed the writ appeal and confirmed the findings of the learned Single Judge.

7. The issues regarding the maintainability of the Industrial Dispute was decided by the Hon'ble Division Bench of this Court and therefore, the present writ petition filed, challenging the Award, which was passed based on the orders of the High Court, cannot be entertained at all.

8. The learned counsel appearing on behalf of the respondent Management states that the very same dispute is the subject matter in the present writ petition. In respect of the same dispute, the Hon'ble Division Bench has decided that the dispute is not maintainable on several grounds as stated above. Thus, the Labour Court has committed any error in dismissing the Industrial Dispute as the High Court has decided the issue regarding the maintainability of the dispute.

9. This Court is of the considered opinion that the Labour Court in Paragraph 11, categorically made a finding that W.P.No.3749/2007 was filed by the Management and the same was allowed by observing that these I.D.Nos.522 to 532 of 1995 shall stand dismissed as not maintainable and as an exgratia amount of Rs.10,000/- to each of the workers to be paid by the Management in order



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to put an end to this litigation. Pursuant to the judgment, the Management also paid the said amount. The said order passed in the writ petition was confirmed by the Hon'ble Division Bench also. Thus, the issues were decided by the High Court and the Labour Court has rightly arrived a conclusion that the very same Industrial Dispute raised by the writ petitioners cannot be entertained once again and accordingly, dismissed the industrial dispute. A Perusal of the entire Award, this Court has no hesitation in coming to the conclusion that there is no perversity or infirmity in respect of the findings of the Labour Court. The Labour Court has dismissed the Industrial dispute based on the ground that the issues were already decided by the High Court and the Hon'ble Division Bench held that the Industrial Dispute is not maintainable on account of efflux of time.

10. Under these circumstances, this Court is not inclined to entertain the writ petition and accordingly, the Award passed by the Labour Court dated 16.06.2009 passed in I.D.Nos.522 to 532/1995 is confirmed and consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Management of
Corborandum Universal Limited,
Chennai - 600 009

2.Presiding Officer,
The II Additional Labour Court,
Chennai.

+1cc to Mr.L.Subramaniyan , Advocate SR.No. 90476

+1cc to Mr.T.S.Gopalan & Co , Advocate SR.No. 90176

W.P.No.11731 of 2009

A.SK(02/12/2019)