

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.21451 of 2004

W.M.P.Nos.25941 & 25942 of 2004, 8519 of 2006

M.Kandan

...Petitioner

vs.

1. The Management of
Kaleeswara Mills 'A' Unit,
Coimbatore.
2. The Presiding Officer,
Labour Court,
Coimbatore.
3. The Secretary,
Coimbatore District Mill Employees Sangam. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records concerning the order in I.D.No.736 of 1999 dated 11.02.2004 on the file of the Presiding Officer, Labour Court, Coimbatore and quash the same and consequently, direct the 1st respondent to pay all the monetary benefits to the petitioner from 01.01.2000 to 04.10.2002.

For Petitioner : Mr.R.Balasubramanian
For Respondents : Mr.R.Parthiban
for R1.
R2-Labour Court
Non-appearance for R3.

O R D E R

The award dated 11.02.2004 passed in I.D.No.736 of 1999 is under challenge in the present writ petition.

2. The petitioner/workman joined in the Management during the year 1963. At the time of appointment, his date of birth was recorded as 31.12.1941. NTC had taken over the respondent Bobbin Carrier during the year 1975 and had applied for standing orders separately and the said standing order was certified on 30.04.1980. 23(3) of the standing orders stipulates that a workman who is already in service may, within a period of three

months after the certification of these standing orders, move the General Manager to revise the age as recorded by the Mills namely Bobbin Carrier. However, the petitioner had not submitted any such application or representation for alteration of his date of birth, within the time limit prescribed in the standing orders. Contrarily, the petitioner made a representation on 02.03.1999, prior to nine months before his retirement on 31.12.1999. The respondent/Management issued a notice to the writ petitioner stating that he is attaining the age of superannuation on 31.12.1999. At that point of time, the writ petitioner made a representation stating that his Date of Birth is 1944 and it was erroneously recorded in his service records as 1941. The Management relieved the petitioner from service on 31.12.1999. Thereafter, the petitioner raised an industrial dispute, which was rejected by the Labour Court mainly on the ground that the application seeking alteration of Date of Birth was filed after a lapse of 36 years, from the date of joining the service. But the writ petitioner has also not explained the delay. Under these circumstances, the Labour Court arrived at a conclusion that the application filed seeking alteration of Date of Birth was highly belated and therefore, the dispute raised deserves no merit consideration. Accordingly, rejected the industrial dispute.

3. This Court is of the considered opinion, that Date of Birth or otherwise, at the time of joining his services are to be maintained till the date of superannuation. In the event of any change, the employee concerned must submit an application, as per the time limit prescribed in the standing orders or in the rules. Belated application submitted by the writ petitioner, during the period of retirement, seeking alteration of date of birth, cannot be accepted at all. The workman concerned admitted the date of birth when he entered into service and that remained the same all along and throughout his service. Thus, the application submitted just nine months before the date of retirement, seeking alteration of Date of birth, is rightly rejected by the Labour Court and there is no reason for such a long delay.

4. This being the findings of the Labour Court, there is no perversity or infirmity and accordingly, the award dated 11.02.2004 in I.D.No.736 of 1999 is confirmed and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

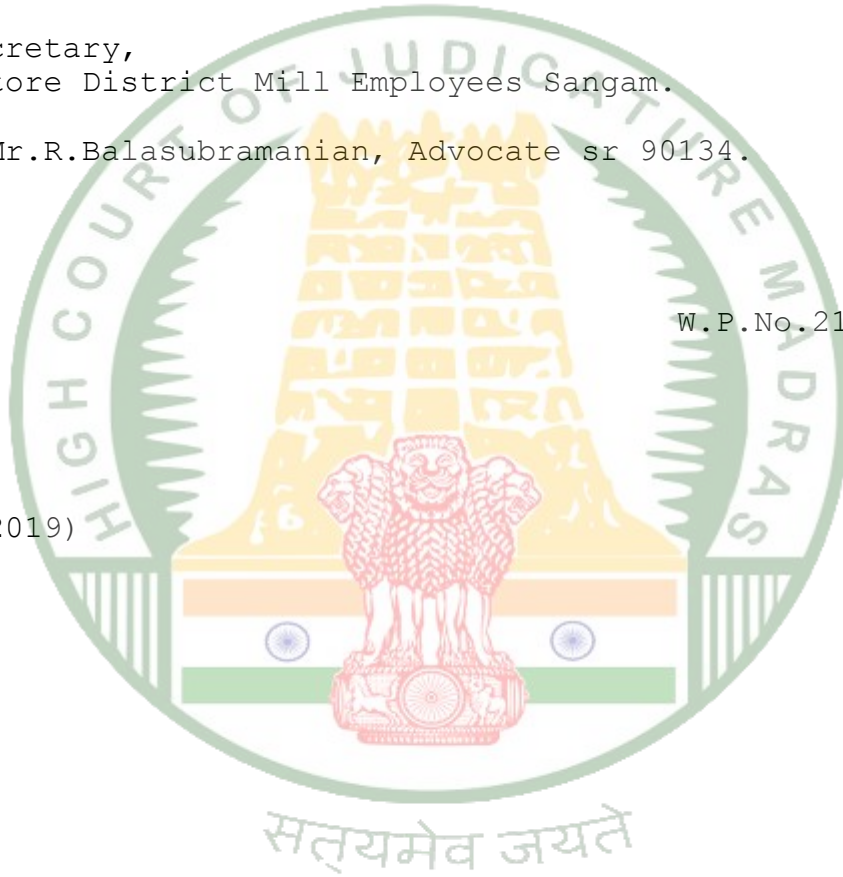
ssb

To

1. The Management of
Kaleeswara Mills 'A' Unit,
Coimbatore.
 2. The Presiding Officer,
Labour Court,
Coimbatore.
 3. The Secretary,
Coimbatore District Mill Employees Sangam.
- +1 CC to Mr.R.Balasubramanian, Advocate sr 90134.

W.P.No.21451 of 2004

GP (CO)
SP (06/12/2019)



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