

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.24944 of 2004

and

W.M.P.No.30338 of 2004

Union of India rep.by
The General Manager,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

...Petitioner

Vs

1.The Presiding Officer,
Central Government Labour Court,
Chennai.

2.Thiru.P.Sathyamurthy

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the impugned order dated 28.04.2004 in C.P.No.22 of 1998 from the files of the Hon'ble Central Government Labour Court, Madras, quash the same.

For Petitioner : Mr.M.Vijay Anand

For Respondents: Mr.S.Gunaseelan

for R2

R1 - Court

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O R D E R

The order under challenge in the present writ petition is an order passed under Section 33-C(2) of the Industrial Disputes Act, 1947 computing the benefits due to the petitioner at Rs.2,31,500/-.

2. According to the learned counsel for the petitioner, the respondent herein from 20.10.1979 to 25.08.1980 and his name was found in the Live Register maintain by the respondent. As such, the action of the petitioner herein amounts to an illegal retrenchment and therefore, they are bound to pay the dues as computed by the Labour Court.

4. The stand of the second respondent/workman is that the retrenched employees were Project Casual Labourers and since the project has come to an end, they were discharged. When some of the retrenched employees had challenged the action of the petitioner herein, the Ministry had ordered for considering implementation of the scheme for absorption of the cases of Project Casual Labourers, who had worked before 01.01.1981. Pursuant to such a decision, the Railway Board had also directed to absorb all labourers into the regular vacancies, who were in the Live Register before the crucial date (i.e.,) on 31.12.1997. Since the petitioner's case was not considered for absorption, he had filed the computation petition before the Labour Court.

5. The Labour Court had taken into consideration the documents filed by the second respondent herein evidencing that he was employed under the petitioner Railways and also the fact that the petitioner herein had admitted during the cross examination that certain copies of documents were not furnished to the petitioner, which were requested. By considering the evidence adduced on the side of the second respondent herein, it was held that the petitioner was entitled for the dues, computed at Rs.2,31,500/-.

6. The learned Standing Counsel for the petitioner submitted that the second respondent herein is not entitled to be treated as a workman, since he had falsely produced a bogus casual labour card. Even otherwise, he would submit that the Labour Court had not granted sufficient opportunities to the petitioner to prove the false claim of the second respondent herein. I am unable to accept such a contention.

7. Before the Labour Court, the petitioner herein had chosen to examine one witness and no documents were marked by the petitioner herein. As such, it cannot be said that the petitioner herein was totally deprived of any opportunity. Insofar as the status of the second respondent herein is concerned, the petitioner had earlier filed an Interlocutory Application in I.A.No.6 of 2002 before the Labour Court, questioning the original casual labour card. When the said interim application came to be dismissed, the petitioner herein had challenged the same through a Writ Petition in W.P.No.1558 of 2003 and this Court by an order dated 24.09.2003, had also dismissed the writ petition, stating that there was no valid ground for interference, and had also observed in the said order that it is for the railways to call for the report from their own officials for that purpose. It is in this background that the computation petition came to be ordered. If at all the petitioner herein was aggrieved on the status of the second respondent or on the genuineness of the identity card, it was to them to prove the same before the Labour Court. However, the Railways has not chosen to produce any documents before the Labour Court.

8. The Labour Court had taken into consideration the documents marked by the second respondent in Exs.P1 to P5 and by relying upon the evidences let in by PW1 and RW1, it was held

9. Since the grounds raised by the petitioner herein are not tenable and since they had failed to establish their case before the Labour Court, no interference is required in the award passed by the Labour Court.

10. Accordingly, the present writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1. The General Manager,
Union of India,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

2. The Presiding Officer,
Central Government Labour Court,
Chennai.

- 1 CC to M/S.M.Vijay Anand, Advocate Sr.No.35244
- 1 cc to Mr.Gunaseelan, Advocate Sr.No.35129

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सत्यमेव जयते

SKV(CO)

RRI 31/05/2019

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