

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P.Nos.14495 and 13517 of 2005

and

W.P.M.P.Nos.14815 of 2005 and W.V.M.P.No.1338 of 2005

W.P.No.14495 of 2005

P.Raja

... Petitioner

Vs

The Management of
M/s.Ashok Leyland Ltd.,
77, SIPCOT Electronics Complex
Sipcot Phase II, Perandapalli,
Hosur - 635 109.

... Respondent

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus after calling for the records from the Labour Court, Salem relating to the award in I.D.No.507 of 1998 dated 07.06.2004 and quash the portion of the award in which the Labour Court holds that the misconduct have proved against the petitioner and on that basis denies the relief of backwages and consequently direct the respondent to pay backwages and other attendant benefits from the date of termination i.e., 17.05.1995.

For Petitioner : Mr.S.Ayyathurai

For Respondent : Mr.Sanjay Mohan

for M/s.S.Rama Subramaniam Associates

W.P.No.13517 of 2005

Management
Ashok Leyland Ltd.,
77, SIPCOT Electronics Complex,
Perandapalli,
Hosur - 635 105

... Petitioner

Vs

1.P.Raja

2.The Presiding Officer,
Labour Court,
Salem.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records connected with the Award dated 07.06.2004 made in I.D.No.507 of 1998 on the file of the 2nd respondent Labour Court and quash the same.

For Petitioner : Mr. Mr.Sanjay Mohan
for M/s.S.Rama Subramaniam Associates

For Respondents : Mr.S.Ayyathurai

COMMON ORDER

Aggrieved against the award dated 07.06.2004, directing reinstatement of the workman back into service together with continuity of service without backwages, the management as well as the workman have preferred these writ petitions.

2.Pending the writ petitions, the management and the workman had amicably resolved the dispute among themselves by mutual discussion and the workman has agreed to accept the offer of Rs.12,00,000/- made by the management towards full and final settlement of his service benefits and to forgo his claim for reinstatement. To this effect, the counsels for both the parties have filed a joint memo dated 14.03.2019.

3.In view of the joint compromise memo dated 14.03.2019, no further orders are required in the writ petition.

4.At this juncture, the learned counsel for the workman made a request that the TDS should not be deducted from the total compensation. It is seen that the award for reinstatement came to be passed on 07.06.2004 and the management has offered to settle the workman today, which is after more than 14 years. Since the compensation is in lieu of the notional backwages, the same can only be considered to be spread over from the year 2004 till date.

5.The Apex Court in a decision reported in 1984 IILLJ Page 22 had laid down the ratio that the entire compensation has to be spread over from year of dismissal to the year of retirement and such income is not made taxable in any year, no income tax shall be deducted from the compensation payable for that year and the workman would be entitled to relief under S.89 of the Income Tax Act.

6.In the instant case, since the compensation has been spread over for a period of more than 14 years, the workman will also be entitled for similar relief under Section 89 of the I.T Act. Hence, it is made clear that the management shall not deduct the TDS from and out of the total compensation of Rs.12,00,000/-.

7.In the light of the above discussions, the management namely Ashok Leyland Ltd., No.77, SIPCOT Electronics Complex, Perandapalli, Hosur - 635 109 is called upon to pay the workman, namely, P.Raja, a sum of Rs.12,00,000/- towards his full and final settlement, in connection with the dispute raised in I.D.No.507 of 1998, within a period of two weeks from the date of receipt of a copy of this order.

8.It is further made clear that the management shall not deduct the TDS from and out of the aforesaid amount.

9.It is also brought to the notice of the Court that after the award, the management has been paying wages under Section 17(b) of the Industrial Dispute Act, 1947 to the workman and the receipt of the same is also acknowledged by the workman. In view of the mutual consent between the parties, the workman shall be entitled to retain the wages paid to him under Section 17 (b).

10.The writ petitions stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

AT

To

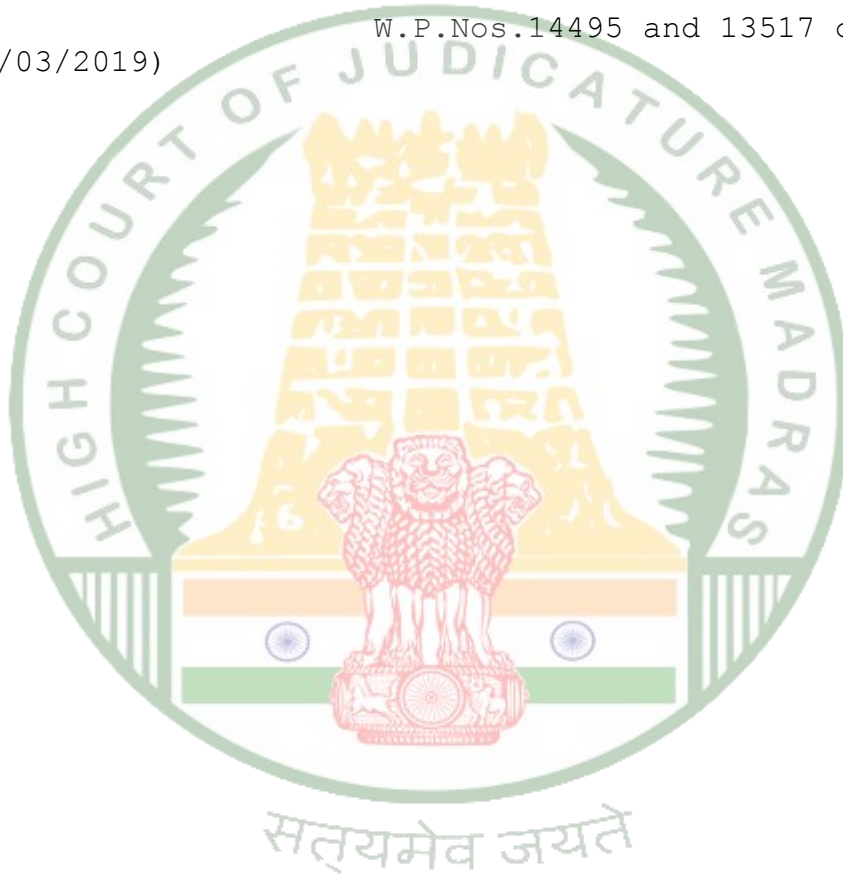
1. The Presiding Officer,
Labour Court,
Salem.

+2ccs to M/s.S.Rama Subramaniam Associates , Advocate
SR.No. 24420,24421

+1cc to Mr. S.Ayyathurai, Advocate SR.No. 24354

W.P.Nos.14495 and 13517 of 2005

A.SK(18/03/2019)



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