

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.5516 of 2004

A.R. Sivalingam

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. The Management,
East Coast Enterprises,
3, Salt Road,
Nagapattinam.

.... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus to call for records and quash the award dated 13.08.2003 passed by the 1st respondent in C.P. No.441 of 1992 and further direct the 2nd respondent to pay the over time wages, weekly holiday wages, yearly holiday wages and Festival holiday wages amount to Rs.3,36,133/-.

For Petitioner : Mr.L. Chandrakumar

For Respondents : Mr.Anand Gopalan

for M/s.T.S.Gopalan & Co for R2.

R1 - Court

O R D E R

The challenge in the present writ petition is against the order rejecting the petitioner's claim petition seeking a sum of Rs.3,36,133/- towards leave wages, overtime wages and festival holiday wages for the period between 03.02.1965 to 13.03.1991.

2. The learned counsel for the petitioner submitted that the petitioner herein had been employed with the second respondent from the year 1965 onwards and that he was drawing a monthly salary of Rs.800/-. In view of his regular employment, he is entitled for wages for weekly holidays, overtime wages and also wages for festival holidays. Since, these benefits were not extended to the petitioner, he has filed the claim petition before the

Labour Court. The learned counsel also submitted that the Labour Court was not justified in rejecting his claim petition on the ground that the petitioner has not filed any documents. In fact, the petitioner had already filed an application before the Labour Court seeking to direct the 2nd respondent to produce various documents evidencing his service. Even otherwise, he would submit that the 2nd respondent herein also did not file any documents to dispute the claim of the petitioner and therefore, the Labour Court ought not to have rejected his claim petition.

3. The learned counsel for the 2nd respondent on the other hand submitted that there was no perversity in the order of the Labour Court. The petitioner herein having chosen to file claim petition is required to substantiate his claim with necessary materials. Furthermore, the learned counsel denied that the petitioner was employed with the second respondent from 1965 onwards. He would further submit that on 13.03.1992, the petitioner herein had voluntarily left the services after receiving his full and final settlement. The claim petition itself is filed with malafide intention and therefore, he sought for rejection of the writ petition.

4. I have carefully considered the submissions made by the respective learned counsels.

5. On a perusal of the order passed by the Labour Court, it is seen that the petitioner herein, though had claimed monetary benefits between the period from 03.02.1965 to 13.03.1991, has not filed any documentary evidences evidencing his employment with the 2nd respondent. The Labour Court had taken into consideration that the petitioner had left the services voluntarily after receiving his settlement. As against the same, the petitioner's raised dispute in ID No.438 of 1992 and which came to be dismissed, on the ground that documents were not produced evidencing petitioner's employment from 1965 to 1991 and also since, he has failed to establish that he was entitled for leave wages only. The Labour Court further observed in the award that the petitioner's working hours was from 9.00 a.m. to 01.00 p.m. and from 04.00 p.m. to 08.00 p.m. and with these timings, he would work only for six months and thereafter, would not turn up for employment and as such, there is no continuous employment.

6. I do not find any infirmity in the observation made by the Labour Court. In the absence of documentary evidences, it is highly improbable for the Labour Court to compute the claim amount and as such, I do not find any

perversity in the order.

7. Incidentally in the writ petition filed by the petitioner in W.P. No.5514 of 2004, challenging the award rejecting his claim for re-instatement, this Court had dismissed the writ petition, today and therefore, I do not find any grounds to interfere with the award passed by the Labour Court.

8. In the result, the writ petition stands dismissed.
No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi2

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to M/s.T.S.Gopalan & Co., , Advocate SR.No. 12523

W.P.No.5516 of 2004

A.SK(20/03/2019)