

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.22116 of 2005

M.Raghu

...Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court,
Chennai.

2. Viking Enterprises,
Joseph Kurien,
No.7, Prasanna Vinayagar Koil Street,
Aminjikkarai,
Chennai - 600029.

...Respondents

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 relating to the order of the first respondent dated 17.11.2004 made in C.P.No.241 of 2002 and quash the same and direct the second respondent to pay the claimed amount of Rs.80,411/- .

For Petitioner : Mr.M.Kampraj

For Respondents: R1 - Labour Court
R2 - Mr.M.R.Dharanichander

सत्यमेव जयते
O R D E R

The order dated 17.11.2004 passed in C.P.No.241 of 2002 is under challenge in the present writ petition.

2. The petitioner/workman states that he entered into the service of the second respondent/Company in the year 1989. He was working as a checker for about eight years. When the writ petitioner claimed yearly increment from the Company, he was terminated from service. The petitioner raised an Industrial Dispute in I.D.No.70 of 1997 before the Principal Labour Court at Chennai. The Industrial Dispute was dismissed by the Labour Court. After the dismissal of the Industrial Dispute raised by the writ petitioner in I.D.No.70 of 1997, the petitioner filed the Claim Petition No.241 of 2002, claiming the benefits of the increment, wages etc. The Claim Petition filed by the writ petitioner was dismissed by the Labour Court mainly on the ground that the petitioner was terminated

from service in the year 1996. He raised an Industrial Dispute in I.D.No.70 of 1997 and the Industrial Dispute was dismissed by the Labour Court, which was marked as Ex.R3 in the Claim Petition. Ex.R2 is the full and final settlement voucher and it was marked during the cross examination of the PW-1. The Labour Court found that the petitioner is an illiterate person. The Labour Court through the documents as well as the evidences found that the I.D.No.70 of 1997 was dismissed and therefore, the Claim Petition filed thereafter, cannot be entertained.

3. This Court is of the opinion that the Claim Petition under Section 33-C(2) can be entertained, if the workman is able to establish the pre-existing rights. Once the rights of the workman is crystallized then alone the petition under Section 33-C(2) can be entertained and not otherwise. When the Industrial Dispute raised in I.D.No.70 of 1997 was dismissed by the Labour Court and no further appeal was filed by the workman, the Labour Court has rightly rejected the Claim Petition filed by the writ petitioner under Section 33-C (2).

4. The writ petitioner has not established any pre-existing right or other right already crystallized and therefore, there is no perversity in respect of the findings of the Labour Court.

Accordingly, the order passed by the Labour Court in C.P.No.241 of 2002 dated 17.11.2004 is confirmed and the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(Insp Cell)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sni

To

1. The Presiding Officer,
Principal Labour Court,
Chennai.

+1cc to Mr.M.Kempuraj, Advocate, S.R.No. 82976

W.P.No.22116 of 2005

PVS (CO)
GN(12/11/2019)