

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2019

CORAM

THE HON'BLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.33569 of 2013
and M.P.Nos.1/2013 and 1/2014

The Madras Homeward Freight Conference Society
Dr.Ambedkar Dock Centre Berth
First floor, Chennai Port
Chennai 1
rep.by its President

... Petitioner

Vs

1.The Presiding Officer,
Third Additional Labour Court
Chennai.

2.K.Gunasekar

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ or order or direction, particularly in the nature of writ of Certiorari calling for the records of the 1st respondent in C.P.No.15 of 2007 and quash the order dated 04.03.2013.

For Petitioner : Mr.Anand Gopalan for
M/s.T.G.Gopalan and Co.

For Respondents : Mr.S.Ayyadurai for R2

O R D E R

The present writ petition is filed by the Management challenging the order of the Labour Court dated 04.03.2013 in C.P.No.15/2007. The Workman has approached the Labour Court for computing the money due to him for the period from July 2000 to February 2003 and pay the same. According to the Workman, the last drawn pay was Rs.6,043/- and he was not paid wages for 6 months in 2001 and 12 months in 2002 and for a period of two months during January and February to an extent of Rs.1,20,860/-.

2. The Management who is the writ petitioner herein would contend that on account of financial difficulties in the year 2001, the Society had decided to pay 50% of the existing wages to all the employees and that they were not in a position to pay the EPF (Employees Provident Fund) contribution of the employees. The employees had also agreed to accept 50% of the salary for the period in question. Though the Workman concerned in the Claim Petition did not agree, he has received 50% of the amount that has been paid to other employees and also filed a Claim Petition after the date of resignation of employee from the employer.

3. According to the Management, once having accepted 50% of salary, after resignation seeking the difference in wages is impermissible and that the Claim Petition has got to be dismissed. When other employees having received the amount, taking note of the financial condition of the Society, the demand of the Workman is unjustified. The Labour Court has unfortunately allowed the claim of the Workman and directed that the amount to be paid from 01.07.2001 till the date of realisation.

4. Heard both sides.

5. It is not in dispute that the respondent is a Workman in the Society and that 50% of the salary alone has been paid for the period in question and when other employees have received, this employee has also received the same, however filed the Claim Petition claiming remaining amount on the ground that there was no settlement with regard to the reduction of payment of 50% wages and that he would be entitled to maintain the claim even after resigning the job and entitled to claim wages for the period of service rendered. The Lower Court taking note of the service rendered by the employee and merely because other employees have accepted the lesser amount, would not entitle the employer to meet the Workman concerned to accept the same amount when there is no settlement of reduction of wages. The Lower Court after taking note of the evidence rendered by the Workman and the Management, came to the conclusion that the employee is entitled to wages for the work rendered. Merely because the employee has resigned and filed the Claim Petition after resignation would not make any employer to contend that employee would not be entitled to claim difference in wages, when there is no agreement cited in Industrial Dispute Act, 1947 or in any other mode for accepting the rejection of payment.

6. Hence I am of the view that there is no perversity in the order passed by the Lower Court and hence the same cannot not be interfered with. If the amount of Rs.1,20,860/- has already been deposited, the Workman is entitled to withdraw a

sum of Rs.1,20,860/- altogether with accrued interest. However considering the financial position of the Society, this Court is of the view that though the Labour Court has permitted to grant interest, in the exceptional cases of this nature, without treating it as a precedent, interest portion alone is deleted. It is represented that there are other cases where employees have not been paid and it should be treated as precedent. In case any one approaches the forum, it is open to them to defend on the ground of latches and also on any other ground available to both the parties.

7. The writ petition is disposed of with the above directions. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Third Additional Labour Court
Chennai.

+lcc to Mr.S.Ayyadurai, Advocate sr.66235

+lcc to Mr.T.S.Gopalan & Co sr.66282

W.P.No.33569 of 2013

pvs(co)
nr 24/10/2019

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