

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.01.2019

Pronounced on : 25.01.2019

CORAM :

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No. 4850 of 2013

B.Ragupathi

... Petitioner

Vs

1. The Presiding Officer,
Labour Court,
Coimbatore.

2.The Management,
Narasimha Mills (P) Ltd.,
(A unit of Thiruvalluvar Textiles (P) Ltd.,
N.S.N. Palayam,
Coimbatore- 641 031. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the entire records pursuant to the order dated 21.06.2012 on the file of the first respondent in C.P.No.11 of 2007, quash the same.

For Petitioner : M/s. S.Saravanan

For Respondents: R.1- Labour Court
: Mr.M.R.Thangavel for R2

O R D E R

Challenging the order dated 21.06.2012 passed by the Labour Court, Coimbatore in computation petition No.11 of 2006.

2. The workman has filed this writ petition. The workman joined the respondent mill in the power house department as a attendant on 01.03.1991. He was confirmed as a permanent switch board operator on 01.09.1998. The petitioner raised a claim that he has not been paid a sum of Rs.69,966/- by the respondent

after the respondent unit was taken over by the present management.

3. It is stated by the petitioner that several representations made to pay his salary. Since the salary was not paid, the petitioner approached the Labour Court, Coimbatore in CP.No.11 of 2007. The material on record discloses that during the pendency of the proceedings, a settlement under Section 18 (1) of Industrial Disputes Act was arrived between the respondent and the petitioner herein. The statement reads as under:-

"Agreement made under Section 18(1) of the Industrial
Dispute Act 1947

Parties participated in Agreement:

1. The Management,
The Narasimha Mills (P) Ltd.,
Mettupalayam Road,
NSN Palayam Post,
Coimbatore.
2. Labour of the Narasimha Mills (P) Ltd.

Representatives present on behalf of the Management. 1. Tr.K.Rangarajan
(Power of Attorney)
The Narasimha Mills (P) Ltd
2. Tmt.Gowri,
Director,
The Narasimha Mills (P) Ltd

Representatives present on behalf of Labour 1. Tr.Raghupathi.B
T.N.450130, Power House
Dept.

Beneficiaries of this Agreement B.Raghupathi,450130,
Power House Dept.

Gist of the Industrial Dispute:

B.Raghupathi is working in the above said Narasimha Mills (P) Ltd from 01.02.1972. The above said Narasimha Mills (P) Ltd is facing several economica crisis from the year 1998. Since the employees were not given any work for several months and also due to their agitations, the situation arose where the factory could not be run. Hence, the factory is not in a position to dispose the salary, bonus and other statutory benefits to its employees. On quite a few occasions the factory was run by adopting wage

reduction to the employees. A few workers opposed the wage reduction. Still the factory could not be run continuously during the interregnum. The factory was run by persons on the basis of production agreement. Still due to the agitations by the employees and other reasons the factory was under cessation of operation from 30.04.2003. Despite various efforts taken by several means, the factory could not be made functional.

At this stage, B.Raghupathi an employee who is party to this suit had submitted his resignation on his own volition with reference from the date of cessation of operation of the factory namely viz., 30.04.2003 vide his letter dated 17.03.2006, specifically stating that he has tendering his resignation from the date of cessation of the factory. The management too accepted the resignation letter, thereafter, the management had discussed with the said employee and came forward to settle the statutory arrears immediately and entered in to an agreement as per the following provisions.

1. The bonus for the years 1998-99, 1999-2000 and 2002-2003 is Rs.6,901/- at the rate of 8.33%. The employee accepted to receive the same.

2. The employee is eligible to receive a amount of Rs. 36,777/- as Gratuity. The Management agreed to pay the gratuity and the employee accepted the same.

3. It is agreed by both the parties that no salary and other allowances need to be paid from April 2003, i.e, from the cessation of operation. Further, as the employee has submitted his resignation letter dated 17.03.2006 stating he has tender his resignation from the date of cessation of operation of the industry i.e., 30.04.2003. No compensation need to be paid to him towards loss of employment.

4. The factory volunteers to pay the Ex-gratia of Rs.34,159.00/- and the same accepted by the employee. Further, under the head of N.S.S.L.I.C, the employee is eligible to receive a sum of Rs.0.00/- from the Management. The employee accepted to receive the said amount. There can be no further demands under these heads.

5. Based on the above said provisions 1 to 4, the total emoluments would be a sum of Rs.1,55,917.0/- . The said amount is accepted as full and final settlement without any demur.

6. Already the employee had received an amount of Rs.

15,000/- from the management and the employer's due towards the Employees Cooperative Credit and Thrift Society. The gratuity obtained from the Tahsildar office and other loans were reduced from the total emoluments and the remaining amount is a sum of Rs.1,40,917/-. The management agreed to pay the said sum vide Demand Draft No.025569 dated 04.04.2006 drawn at Union Bank of India.

7. In addition, the management of Narasimha Mills (P) Ltd agrees for earlier payment from its side and also on the employee's side to the ESI & Employee's Cooperative Credit and Thrift Society. The employee agrees that other than the above said amount, no amount, whatsoever is due to him from the management and that he has no right whatsoever to seek employment from the management.

8. The employee affirms that he will not initiate any action through his association in pursuance of the favourable orders obtained by him in C.P.No.193/2003 and that in view of this agreement there is no need for implementation of the said orders. The employee also affirms that no amount is due to him in pursuance of the said orders.

9. Since the employee has received the full and final settlement of the amount due to him. He assures that no legal action, whatsoever, will be taken by him against the management.

For Management

Labour

- | | |
|------------------------------------|---------------|
| 1. K.Rangarajan, Power of Attorney | B.Raghupathi, |
| 450130, | |
| 2. Smt.A.Gowri, Director | Power House |
| | Department. |

Witnesses:

1. Loganathan, President, KNLO, The Narasimha Mills (P) Ltd, Narasimmanaickanpalayam, Coimbatore.
2. Kalyanasundaram, Secretary, KNLO, The Narasimha Mills (P) Ltd, Narasimmanaickanpalayam, Coimbatore.
3. J.Ashok Kumar, Advocate, Coimbatore.

Copy to:-

1. The Assistant Labour Commissioner, Labour Dept, Dr.Balasundaram Salai, Coimbatore.
2. The Labour Commissioner, Teynampet, Chennai.

3. The Secretary, Labour and Employment Department, Teynampet, Chennai."

4. Despite the agreement, the respondent continued with his claim before the Labour Court. The management relied on the settlement arrived under Section 18(1) of the Industrial Disputes Act and the amount due from the respondent management and therefore, the present petition is not maintainable. The Labour Court accepted the contention and rejected the petition. Challenging this, the instant writ petition has been filed.

5. A perusal of the settlement arrived under Section 18(1) of the Industrial Disputes Act would show that the writ petitioner had accepted the amount as full and final settlement. Section 18 of the Industrial Disputes Act is read as under:-

"18. Persons on whom settlements and awards are binding.-131[(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) 132[Subject to the provisions of sub-section (3), an arbitration award] which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.]

133[(3)] A settlement arrived at in the course of conciliation proceedings under this Act 134[or an arbitration award in a case where a notification has been issued under sub-section (3-A) of Section 10-A] or 135[an award 136[of a Labour Court, Tribunal or National Tribunal] which has become enforceable] shall be binding on-

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute, unless the Board, 137[arbitrator,] 138[Labour Court, Tribunal or National Tribunal], as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause (a) or clause (b) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part."

6. Settlement under Section 18 is binding on all the persons who all are parties to the settlement. The writ petitioner is a party to the settlement. The settlement is binding on him. The counsel for the petitioner has not shown as to how this settlement is contrary to any statute. The order of the Labour Court does not required any interference. The writ petition is dismissed. No Costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsp/Pkn

To

1. The Presiding Officer,
Labour Court,
Coimbatore.

2.The Management,
Narasimha Mills (P) Ltd.,
(A unit of Thiruvalluvar Textiles (P) Ltd.,
N.S.N. Palayam,
Coimbatore.

+1 cc to Mr.S.Saravanan, Advocate Sr.No.6014

Order made in
W.P.No. 4850 of 2013

KS (CO)
CSL/21.02.2019

सत्यमेव जयते

WEB COPY