

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2019
CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.9745 of 2019 and
W.M.P.No.10337 of 2019

M.Krishnan

... Petitioner

Vs.

The Management,
M/s.Cotton Blossom India Private Limited Company,
Corporate Office,
Door No.189, Tech T.Nagar,
SIDCO, Muthilpalayam,
Tiruppur - 641 606.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records of order dated 20.2.2019 passed by Additional Labour Court at Coimbatore in I.A.No.176 of 2018 in I.D.No.47 of 2016 and quash the same and consequently direct the Additional Labour Court at Coimbatore to allow the same.

For Petitioner : Mr.Myilsamy K.

For Respondent : Mr.S.Mukunth for
M/s.Sarvabhauman Associates

ORDER

This writ petition has been filed as against the order of the Labour Court dismissing the I.A.No.176 of 2018 in I.D.No.47 of 2016. The petitioner is a workman, employed under the respondent management.

2.The petitioner has filed an application under Section 2 (A) (2) of the Industrial Disputes Act, 1947 before the Conciliation Authority raising the demand for payment of certain financial dues payable to him on the basis of oral termination of the services of the petitioner by the management. Since the Conciliation ended in failure, the matter was taken up as Industrial Dispute before the Labour Court and evidence was let in on the side of the workman as well as the on the side of the management and on completion of the evidence, the matter was posted for arguments. At that stage, the petitioner had filed an I.A.No.176 of 2018 under Section 11 of the Industrial Disputes Act, 1947 seeking permission of the Court to amend the main claim statement.

3. According to the petitioner, while seeking the main relief for payment of monetary benefits to which he is entitled, pursuant to his termination, inadvertently, he failed to include the prayer for reinstatement in service. The Labour Court, after adverting to evidence and other materials placed on record, has held that such an application at the belated stage cannot be entertained and it is not open to the workmen to change the character of the dispute at the fag end of the proceedings. In fact, the Labour Court, in para 8 of the order, has clearly held that it was never a case of the workman that a relief of reinstatement was prayed for. The observation of the Labour Court, as found in paragraph 8 of the order, is extracted hereunder.

"8. There is no dispute that the petitioner has not claimed the relief of reinstatement either in his notice or in his petitions u/s. 2-A(1) and 2-A(2) of the I.D. Act. In his mail communications and evidence during cross-examination also he has not claimed reinstatement. But he has claimed only monetary benefits. It is to be noted that in the counter statement filed by the respondent on 03.07.2017, the respondent has clearly stated that the petitioner did not seek the relief of reinstatement. In spite of that the petitioner has not taken any steps to amend the claim statement. Already evidence was adduced on both sides and now the dispute is pending for arguments. It appears that only to fill up the lacuna in his case the petitioner has come forward with this application as an after thought. When it has been argued by the petitioner that already pleadings are available in the claim statement on these aspects, this Court is unable to understand as to what is the necessity to include the proposed amendments."

4. From the above, it is seen that the petitioner had never pleaded for reinstatement nor that was his claim during the proceedings before the Labour Court. Once it is established that the petitioner never prayed for grant of relief of reinstatement, it is not open to him to seek an amendment to include the prayer for reinstatement at the belated stage of the proceedings before the Labour Court. Such an attempt by the workman would amount to changing the entire character of the dispute pending consideration before the Labour Court and therefore, the Labour Court has rightly dismissed the I.A. filed by the petitioner.

5. Although the learned counsel for the petitioner attempted to impress upon this Court that the Labour

Court has not appreciated the claim of the petitioner in proper perspective. This Court is unable to accept the submission made on behalf of the petitioner. This Court is of the considered view that the Labour Court has considered the submissions and taken into account the evidence let in in the matter and has come to the right conclusion against the petitioner. The finding of the Labour Court does not suffer from any infirmity or any perversity for this Court to intervene with the same.

6.In the above said circumstances, this Court finds no scope for interference of the order passed by the Labour Court and therefore, the Writ Petition lacks merits and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

Sgl

To

The Additional Labour Court,coimbatore

+lcc to Mr.Saravanabauman Associates , Advocate SR.No. 53724

+lcc to Mr.Myilsamy K , Advocate SR.No. 53408

A.SK(07/08/2019)

W.P.No.9745 of 2019

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