

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.08.2019

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22857 of 2019

R.Chelliah

... Petitioner

-vs-

The Management of
Shelkalmudi Estate,
Parry Agro Industries Limited,
Valparai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the Labour Court, Coimbatore, in I.A.No.462 of 2014 in I.D.No.597 of 1991 dated 16.05.2017 and quash the same.

For Petitioner : M/s.D.Bharathy

ORDER

The petitioner has come forward with the present Writ Petition challenging the order dated 16.05.2017 passed in I.A.No.462 of 2014 in I.D.No.597 of 1991 on the file of the Labour Court, Coimbatore, by which the amount deposited by the Respondent herein was directed to be returned to them.

2. Heard the learned counsel for the Petitioner. Notice to the Respondent is dispensed with, as no adverse order is going to be passed against them in this petition.

3. The case of the petitioner is that he was employed in the service of the respondent Management in the year 1964. Subsequently, he was dismissed from service in the year 1971 for his indecent behaviour. As against his non-employment, he has filed a petition under Section 2A (2) of Industrial Dispute Act, 1947 before the Labour Court, Coimbatore in I.D.No.597 of 1991. Though the Labour Court has found that the petitioner is not fit to serve in the Organisation, considering his loss of employment, an Award dated 05.09.1994 was passed, directing the respondent to pay a sum of Rs.30,000/- as compensation to the petitioner. Aggrieved by the said Award, the respondent herein filed a Writ Petition in W.P.No.2676 of 1995 before this Court, in which, interim stay was granted by this Court, with a direction to the respondent herein to deposit a sum of Rs.30,000/- before the Labour Court and the same was complied with by the respondent. Subsequently, the Writ Petition was allowed on 05.06.2002 and the Award of the Labour Court in respect of dismissal was

upheld and its order with regard to payment of compensation of Rs.30,000/- for loss of employment was quashed. Against the order of the learned Single Judge, the petitioner had filed a Writ Appeal in W.A.No.1155 of 2006 before this Court, which stood dismissed in the year 2006 and thereafter, the SLP preferred by the petitioner herein before the Hon'ble Apex Court in SLP.No.15188 of 2016 was disposed of on 14.09.2016, with liberty to approach the concerned authority to rectify the mistake in the gratuity amount payable to the petitioner. In the meanwhile, the respondent has filed an Interim Application in I.A.No.462 of 2014 in I.D.No.597 of 1991 seeking for a direction to the bank to transfer the deposited amount to the Labour Court, Coimbatore, and the same was allowed by the Labour Court on 16.05.2017, aggrieved by which, the petitioner is before this Court.

4. The only objection raised by the petitioner in the present Writ Petition is that he had served more than 30 years of service, but the Gratuity is not paid to him and the application is still pending before the Gratuity Authority. The sum of Rs.30,000/- demanded by the respondent pursuant to the orders passed by the Labour Court in I.A.No.462 of 2014 in I.D.No.597 of 1991 includes gratuity amount also.

5. This Court is not inclined to accept the contention, as the issue before the Gratuity Authority is still born child and the Gratuity Authority has to determine the amount and thereafter, pass necessary orders in case the said authority accepts the contention of the workman / employee.

6. As far as the Industrial Dispute is concerned, pursuant to the orders of this Court, the amount deposited by the respondent / Management before the Labour Court, Coimbatore, needs to be refunded to the respondent and therefore, in the considered opinion of this Court, the order of the Labour Court does not suffer from any perversity or illegality. Hence, I find no merits in the Writ Petition and accordingly, the same is dismissed.

7. The Labour Court, Coimbatore, is directed to return the said sum of Rs.30,000/- together with accrued interest to the respondent within a period of 45 days from the date of receipt of a copy of this order. This Court, however, makes it very clear that the order of dismissal and the Writ petition will have no bearing in the claim made by the petitioner before the Controlling authority, which is going to be decided on merits by the Controlling authority, as the Hon'ble Apex Court, by an order dated 14.09.2016 in SLP.No.15188 of 2016, has categorically held that it is open to the employee to approach the concerned authority to rectify the mistake in the gratuity amount that has been wrongly calculated, so as to determine the amount payable to the petitioner. Since liberty has already been given by the Apex Court and the employee has also approached the concerned

authority, no further orders are required to be passed in the gratuity application that is said to be pending before the Gratuity Authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

raja

To:

The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr.D.Bharathy , Advocate SR.No. 66852

W.P.No.22857 of 2019

A.SK(19/12/2019)



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