

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 28.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.28185 of 2018

P. Ravichandran

...Petitioner
vs.

1. The Management
Sharp Industries,
Sharp Nagar,
Kalapatti,
Coimbatore - 641 048.

2. The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or other similar writ or order or direction calling for the records with respect to the entire proceedings in I.D.No.131 of 2013 on the file of the 2nd respondent and quash the Award dated 28.11.2017 and consequently, direct the first respondent to provide reinstatement to the petitioner with continuity of service and full back wages and all other attendant benefits from the date of oral termination i.e. 03.01.2013 to till the date of reinstatement.

For Petitioner : Mr. V. Sivakumar
For Respondents : Mr. S. Ravindran, Senior Counsel
for Mr. S. Bazeer Ahamed for R1
R2- Labour Court

ORDER

The award dated 28.11.2017 passed in I.D.No.131 of 2013 is under challenge in the present Writ Petition.

2. The petitioner employee states that he is a permanent employee of the first respondent management. He joined in service on 03.05.1988. The petitioner states that he was the

President of L.P.F. Trade union and a protected workman under the Industrial Disputes Act. While so, the first respondent all of a sudden directed him to report duty at Nagpur. The petitioner was employed as fitter and was not a service engineer. He was transferred to Nagpur to attend the service work which amounts to change in service and in violation of Section 9 A of the Industrial Disputes Act.

3. The petitioner states that as per the Standing Orders there is no provision either to transfer or depute him to other State and as such this act of the management amounts to victimization. The petitioner in spite of his objections, joined duty at Nagpur giving regard to his duties and responsibilities. Finally the writ petitioner was transferred again to Coimbatore, however on instruction from the first respondent management the petitioner was not permitted to enter into the Company and he was orally terminated from service. The petitioner raised an industrial dispute in I.D.No.131 of 2013 and the Labour Court awarded the compensation of Rs.3,00,000/- and challenging the said compensation, the writ petitioner filed a Writ Petition for the relief of reinstatement with full back wages and continuity of service as prayed for by him in his claim petition before the Labour Court.

4. The learned counsel appearing on behalf of the first respondent management made a submission that the petitioner was not terminated from service. The said stand of the management was expressed before the Labour Court which was accepted. There was a transfer order transferring the writ petitioner to Nagpur and at his request, he was retransferred to Coimbatore.

5. The learned Senior Counsel contended that when it is not a case of termination, there is contradiction in paragraph 16 of the Award, when the Labour Court made a finding with regard to the quantum of compensation. It appears that the petitioner in his evidence as W.W.1 deposed that in view of the illegal retrenchment he had suffered an amount of Rs.3,00,000/- as salary loss. In fact no suggestion was put to the petitioner by the learned counsel for the respondent in this aspect. Hence, the management is directed to pay a lumpsum compensation of Rs.3,00,000/- to the petitioner as full and final settlement with respect to his entire claim.

6. As per the Award there are no violations as the writ petitioner was transferred to Nagpur and he was then re transferred to Coimbatore and therefore the point of victimization was not established by the writ petitioner even

before the Labour Court. When the employee concerned has not established the fact regarding the termination of his services, then the Labour Court has arrived at a conclusion that he is not entitled for reinstatement and in lieu of it a compensation was granted towards loss of salary sustained by the employee.

7. This being the facts and circumstances, this Court is not inclined to interfere with finding made by the Labour Court on the basis of the documents and evidence produced by the respective parties before it. Accordingly, the award dated 28.11.2017 passed in I.D.NO.131 of 2013 is confirmed and the Writ Petition stands dismissed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

mrn

To

1. The Presiding Officer,
Labour Court,
Coimbatore.

+1 cc to Mr.V.Sivakumar Advocate sr99848

+1 cc to Mr.S.Bazeer Ahamed Advocate sr99889

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