



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.(MD) No.23648 of 2019

and

W.M.P(MD) .No.20252 of 2019

M.K.Pandian

...Petitioner

-Vs-

1.Appadurai

Associate Partner

HR GVKEMRI

Human Resource Development Officer

Government Kasthuriba Gandhi

Womens and Children's Hospital

Chennai 600 005

2.The Government of Tamil Nadu

represented by its Joint Secretary to the Government

Department of Labour and Employment

Fort St.George

Chennai

... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for records and set aside the order dated 21.05.2019 in C.P.No.60 of 2018 in I.D.No.25 of 2016 on the file of Labour Court, Madurai and direct the respondents to reinstate the petitioner in service and sanction all the monetary benefits from the date of his permanent appointment viz., 01.12.2009 onwards.

For Petitioner : Mr.S.Krishnamoorthy

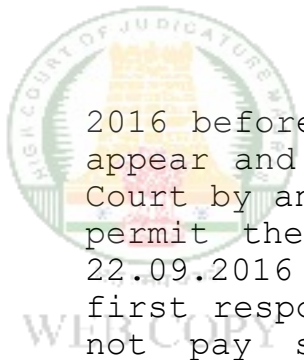
For R2 :Mr.V.R.Shanmuganathan

Special Government Pleader

ORDER

This Writ Petition has been filed to call for records and set aside the order dated 21.05.2019 in C.P.No.60 of 2018 in I.D.No.25 of 2016 on the file of Labour Court, Madurai and direct the respondents to reinstate the petitioner in service and sanction all the monetary benefits from the date of his permanent appointment viz., 01.12.2009 onwards.

2.According to the petitioner, he was working as Driver in the first respondent organization. From 20.06.2013, he was denied employment, in spite of letter addressed to the first respondent. Hence, the petitioner raised an Industrial Dispute in I.D.No.25 of



2016 before the Labour Court, Madurai. The first respondent did not appear and contest the dispute raised by the petitioner. The Labour Court by an award dated 28.12.2016, directed the first respondent to permit the petitioner to work and pay salary from 30.03.2013 to 22.09.2016 for 36 months, at the rate of Rs.8785/- per month. The first respondent did not permit the petitioner to work and also did not pay salary as directed by the Labour Court. Hence, the petitioner filed W.P(MD).No.10770 of 2017 for implementing the said award. This Court by an order dated 09.06.2017, dismissed the Writ petition, holding that the Writ petition against the private individual is not maintainable. Against the said order, Writ appeal was filed by the petitioner and the same was also dismissed by confirming the order passed in the Writ petition and also holding that it is open to the petitioner to approach the Labour Court for the relief sought for. The petitioner filed petition under Section 33(C)(ii) of the Industrial Dispute Act, in C.P.No.60 of 2018 before the Labour Court claiming monetary benefits as awarded by the Labour Court and also for reinstatement in service. The first respondent did not appear and contest the claim petition before the Labour Court, Madurai. Considering the materials on record, the Labour Court, Madurai ordered monetary benefits as claimed by the petitioner, but rejected the relief of reinstatement into service. Challenging the said order, the petitioner has come up with the present Writ petition.

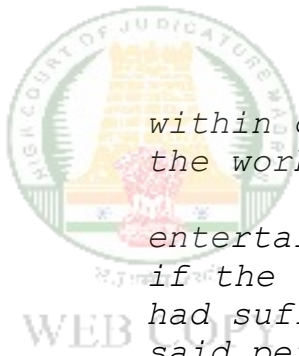
3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the second respondent.

4. The relief of reinstatement claimed by the petitioner under Section 33(C)(ii) of the Industrial Dispute Act, is not maintainable. The Labour Court has rightly rejected the said relief and has granted only monetary relief. As per Section 33(C)(ii) of the Industrial Dispute Act, workers can file a petition for recovery of money due from employment. Section 33(C)(i) and (ii) read as follows:

"33(C).Recovery of Money due from an employer:

(1) Where any money is due to a workman from an employer under settlement or an award or under the provisions of (Chapter V-A or Chapter V-B), the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

Provided that every such application shall be made



within one year from the date on which the money became due to the workman from the employer.

Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government (Within a period not exceeding three months)

5. A reading of the above Section clearly reveals that the Labour Court has power to order payment of monetary benefits, which the petitioner is entitled to and has no power to grant any other relief.

6. In view of the same, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar (CS)

TO

The Joint Secretary to the Government
Government of Tamil Nadu
Department of Labour and Employment
Fort St. George
Chennai

+1 CC to M/s.S.KRISHNAMOORTHY, Advocate (SR-97081[F] dated 08/11/2019)

+1 CC to M/s.GP (SR-97291[F] dated 11/11/2019)

msa

SMA/16/12/19/3P/4C

W.P. (MD) No.23648 of 2019

and

W.M.P (MD) .No.20252 of 2019

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