

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 27-11-2020

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.36975 of 2004
and W.P.M.P.No.44414 of 2004

The Management of Easwaran Industries
23, Thiyagaraja Pillai Street,
Chennai - 600 001. ... Petitioner

-vs-

1. The Presiding Officer
Principal Labour Court,
Chennai.
2. K.T.Ramkumar
3. The Deputy Secretary
The Labour and Employment Department,
Secretariat,
Chennai - 9. ... Respondents

Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in C.P.No.533 of 1998, dated 30.01.2004 and quash the same.

For Petitioner : No Appearance

For Respondents : R1 - Court
Mr.K.M.Ramesh for R2

ORDER

The prayer sought for herein is for a writ of certiorari, to call for the records of the first respondent in C.P.No.533 of 1998, dated 30.01.2004 and quash the same.

2. When the case was called for hearing on 10.11.2020, no one was appearing for the petitioner, however, the learned counsel appearing for the contesting respondent workman alone appeared, therefore it was directed to list under the caption "For Dismissal". Accordingly, it is list under the said caption today.

3. Today also when the case is taken up for hearing, no one is appearing for the petitioner. However, Mr.K.M.Ramesh, learned counsel appearing for the second respondent has made his submissions.

4. I have heard Mr.K.M.Ramesh, learned counsel appearing for the second respondent and perused the materials placed before this Court.

5. The respondent workman was working as Turner from 02.07.1992 with the petitioner unit and his last drawn salary was Rs.2,000/-, when he was prevented from duty or retrenched from duty on 10.08.1998.

6. Though he was retrenched, the retrenchment compensation has not been paid, therefore, in order to get the same, which according to the respondent workman comes about Rs.20,700/- calculated from the last drawn salary of Rs.2,000/- per month and therefore, in order to get the said amount, he filed the Claim Petition No.533 of 1998 before the Principal Labour Court, Chennai.

7. The Labour Court, after heard both sides and also after recording the evidence adduced by both sides, has passed an order in the Claim Petition on 30.01.2004, whereby the case of the workman / petitioner therein was accepted in the Claim Petition, accordingly, a direction was given to the management / employer to pay the said retrenchment compensation of Rs.20,700/- to the workman.

8. Felt aggrieved over the said order passed by the Labour Court in the Claim Petition, this writ petition has been filed.

9. Before the Labour Court, in support of the case of the workman, he was examined as P.W.1 and on his behalf, Ex.P.1 to P.4 were marked. On behalf of the employer, one Sathyamoorthy was examined as RW.1 and Ex.R.1 was marked.

10. Based on these evidences, the Labour Court has considered the claim of the workman and the Labour Court has found that, as per the certificate issued by the employer, the monthly salary drawn by the workman was Rs.2,000/- and therefore, that was the last drawn salary of the workman at the time of retrenchment.

11 Also the Labour Court has held on the basis of the evidence that, it is not the voluntarily abandoning the service on the part of the workman as claimed by the management, in fact the workman was either prevented from continuing in the service or has been retrenched. This was also found in favour of the

workman by the Labour Court in the order impugned, where the Labour Court has held as follows :

"10. It is evident from the evidence of both side that the petitioner was working as a turner in the respondent industries. It is also evidence from Ex.P.4 that the petitioner was getting a sum of Rs.2000/- as salary in the year 1998. Be, the case of the respondent regarding the salary and as well as the loan amount cannot be accepted.

11. It is the case of the respondent that the petitioner on his own volition abandoned the service of the respondent. Except the counter and the oral evidence of R.W.1, there is no other document to show that the petitioner had abandoned the service voluntarily. Ex.P.4 also does not reveal the abandonment of service. So, the respondent has not proved his case that the petitioner had abandoned the service. The respondent has not at all produced any document to show the payment of salary. So, I hold that the petitioner was getting a sum of Rs.2,000/- per month as pay. The respondent has not at all denied the leave wages claimed by the petitioner.

12. It is evident from the evidence of R.W.1 that R.W.1 is maintaining accounts. They are also maintaining sales tax and income tax accounts. Documents for the payment of salary to the employees are also maintained and all the accounts are true accounts. The payments were made to the employees from the accounts of the company. From the above, it is clear that the respondent is maintaining the accounts. The respondent is wilfully and wantonly suppressing the documents from the purview of this court. So, I hold that the respondent has not come forward with clean hands. For the reasons stated above, I hold that the petitioner is entitled to the amount as claimed in the petition. The point is answered accordingly."

12. Therefore, ultimately the Labour Court accepted the case of the workman and directed the management to pay a sum of Rs.20,700/-.

13. The said order passed by the Labour Court in the Claim Petition, which is impugned herein, does not fall under the

category of any perverse order or shocking the conscience of this Court to interfere. The said order has been passed based on the evidence cogently produced before the Labour Court. Therefore the said order, which is impugned herein, of the Labour Court, in the considered opinion of this Court, does not require any interference. Accordingly, the impugned order is sustained and the writ petition is dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Presiding Officer
Principal Labour Court,
Chennai.
2. The Deputy Secretary
The Labour and Employment Department,
Secretariat,
Chennai - 9.

+1 cc to M/s.K.Ramesh, Advocate Sr.No. 37928

W.P.No.36975 of 2004

UM(CO)

RMP (03/02/2021)

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