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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3377 of 2019

IMCO Office Products International Pvt. Ltd.,
282-283, Chengal-Kanchipuram Road,
Puliyambakkam Village,
Walajahbad Taluk,
Kanchipuram District. ... Appellant/Respondent

vs.

Thirunavukarasu ...Respondent/Claimant

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order dated 23.10.2018 made in A1/4028/18 (WCC No.234/2018) on the file of the Commissioner of Workmen's Compensation-II, Joint Commissioner of Labour-II, DMS Complex, Teynampet, Chennai 600 006, praying to set aside the same.

For Appellant : Mr.N.V.V.Krishna

For Respondent : Mr.C.Prakasam

J U D G M E N T

Challenging the order dated 23.10.2018 passed by the Commissioner of Workmen's Compensation-II / Joint Commissioner of Labour-II, DMS Complex, Teynampet, Chennai, in A1/4028/18 (WCC No.234/2018), the Management has come up with the present Appeal.

2. According to the learned counsel for the Appellant/Management, the Authority is not entitled to pass the impugned order and that, the matter has been mutually settled by an Agreement under Section 28 of the Workmen's Compensation Act, 1923, whereby, the Respondent/workman has accepted to receive compensation and affixed his signature in the Agreement before the Authority concerned. He further submitted that, the settlement amount has been disbursed to the Respondent/workman by way of a Cheque, only with the consent of the Authority under the Workmen's Compensation Act. Hence, it is the contention of the learned counsel that, no claim can be entertained by the Authority.



3. Today, it is represented by the learned counsel appearing for the Respondent/workman that, he is unable to get instructions from his client.

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4. The averment of the Appellant/Management is that, though, the Respondent/workman has received the settlement amount, he has not brought the same to the knowledge of the Authority. It is no doubt true that, the Authority is empowered to grant the relief, which got operative. But, non-furnishing of details by the Respondent/workman to the Authority about the receipt of settlement amount pursuant to the Agreement, cannot be appreciated.

5. In view of the same, the order dated 23.10.2018 passed by the Commissioner of Workmen's Compensation-II / Joint Commissioner of Labour-II, DMS Complex, Teynampet, Chennai, in A1/4028/18 (WCC No.234/2018) is set aside. The Authority is directed to refund the amount received from the Appellant/Management, lying in deposit, within a period of 30 days from the date of receipt of a copy of this order, together with accrued interest.

6. At this juncture, it is worth referring to a decision rendered by this Court in the case of Pyramid Saimira Theatre Ltd. vs. Regional Provident Fund Commissioner Employees Provident Fund Organisation reported in 2009 (3) LLN 483 : 2009 (4) LLJ 893, wherein, it was held that, before the expiry of the Appeal time, no coercive action shall be taken.

7. In view of the above, the Commissioner of Labour, Chennai, is directed to issue a Circular to the Authorities dealing with Labour matters to the following effect:

"(i) No amount shall be disbursed before the expiry of the time limit prescribed under the respective enactments for preferring an Appeal from the date of receipt of the order, that may be sent by Speed Post or Registered Post.

(ii) Acknowledgment details together with despatch particulars shall be maintained, and, if there is any wrong disbursement, action shall be initiated against the staff concerned, on the complaint, if any, received from the aggrieved party.

(iii) The order shall be immediately despatched, once it is signed and there cannot be huge delay from the date of the order till the date of despatch. The time limit shall not exceed fifteen working days, in toto. This will enable the aggrieved parties to file an Appeal within 60 days from the date of receipt of the order. "



8. A narrow construction to Section 30(2) of the Act cannot be given, as, in case, the Authority despatches the order after 60 days, then, the Appeal needs to be filed with a Delay Petition. That is not the intention of the Legislation. Harmonious construction need to be given to the beneficial legislation. Hence, it applies to the injured/dependents and also to the principal employer/immediate employer/Contractor. Hence, the time limit for filing an Appeal under Section 30(2) starts from the date of receipt of a copy of this order, and not from the date of passing of the order. If a rigid construction of Section 30(2) of the Act has to be given, that, Appeal has to be filed within 60 days from the date of passing of the order, the Authority will have to despatch the order on the same day of passing the order.

9. This Civil Miscellaneous Appeal is allowed with the above direction and observation. No costs. Consequently, connected C.M.P.No.19716 of 2019 is closed.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

(aeb)

To :

1.The Commissioner of Workmen's Compensation-II/
Joint Commissioner of Labour-II, DMS Complex, Teynampet,
Chennai.

2.The Commissioner of Labour, Chennai.

+1cc to Mr.N.V.V.Krishna, Advocate SR.No.2020

C.M.A.No.3377 of 2019

SR(CO)
GMY(14/07/2020)