



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.9635 of 2013

WEB COPY

1.Janaki
2.Jeyanthi
3.Silaiammai
4.Manimegalai

... Petitioners

vs.

1.The Labour Court
Trichy

2.The Management
Muthukumar Bankers
118-B, Main Road
Keelavaladi
Lalkudi Taluk
Tiruchirapalli District

....Respondents

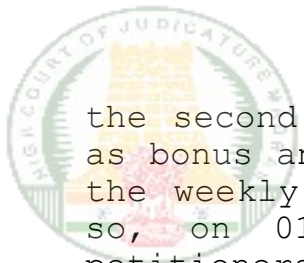
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus to call for the records relating to the order of the first respondent in Claim Petition No.17 of 2003 dated 13.07.2012 and quash the same and direct the second respondent to pay a sum of Rs.98,996/- towards leave salary, bonus, over time salary payable to the petitioners as legal representatives of deceased employee Chidambaram within the period stipulated by this Court.

For Petitioners	:	Mr.A.Haja Mohideen
For R1	:	Court
For R2	:	Mr.G.S.Asok Adhithyan

O R D E R

The above Writ petition has been filed to call for the records relating to the order of the first respondent in Claim Petition No.17 of 2003 dated 13.07.2012 and quash the same and direct the second respondent to pay a sum of Rs.98,996/- towards leave salary, bonus, over time salary payable to the petitioners as legal representatives of deceased employee Chidambaram within the period stipulated by this Court.

2.The petitioners are the legal heirs of the deceased workman Chidambaram. The petitioners' claim that the first petitioner's husband and father of the petitioners 2 to 4 was working in the respondent's concern as an Accountant from 06.01.1993 During his service, he was paid with salary of Rs.2,500/- per month. Further,



the second respondent promised to pay a sum of Rs.3,000/- per year as bonus and he assured to pay for the work which have been done in the weekly holidays, yearly holidays and leave for festival. While so, on 01.03.2000 because of ill health of Chidambaram, the petitioners demanded the second respondent to pay the amount towards bonus, leave salary and overtime salary etc., The second respondent promised to settle the amount within a short period. Unfortunately, on 19.05.2000 the workman Chidambaram died. Even though the death of Chidambaram was intimated to the second respondent, he has not paid any amount and refused to settle the said amount.

3.The learned counsel for the petitioners would submit that since the workman Chidambaram is entitled to get leave salary for a period of seven years and on calculation of the same, the second respondent is liable to pay a sum of Rs.98,996/-. Therefore, the petitioners filed a petition before the Labour Court, Trichirappalli in Claim Petition No.17 of 2003. After hearing the case, the learned Presiding Officer had dismissed the claim petition. Aggrieved over the said order, the petitioners are before this Court.

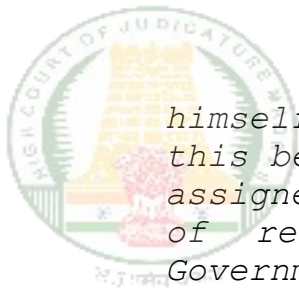
4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.

5.Perusal of record shows that in the Claim petition, the second respondent herein has filed a counter and stated that the first petitioner is not a legally wedded wife of the deceased Chidambaram. The second respondent also contended that the deceased Chidambaram was not working under the respondent management and also denied the payment of salary to the deceased Chidamabram.

6.The learned Judge has framed the points for consideration that whether the petition is maintainable under Section 33(C)(2) without an award or settlement before the Court and whether the petitioners are entitled for the relief. After hearing the submission, the learned Judge finding that since the respondent management disputed the employment of Chidambaram, it has to be decided under Section 2(A) of the Act. The Labour Court has rightly held that if the employment is admitted and the amount liable to be paid is disputed, then the Court can independently look into the nature of the employment and calculate the claim if any. But, in this case, the employment of Chidambaram under the respondent is sought to be decided to which the Court is not having jurisdiction under Section 33(C) of the Industrial Dispute Act. The learned Judge has also extracted the provision of Section 33(C) of the Industrial Dispute Act and the same reads as follows:

" Section 33C. Recovery of money due from an employer:

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of (Chapter VA or Chapter VB), the workman



himself or any other person authorized 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 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)".

7. The learned Judge has relied on the above provision and found that any claim under Section 33(C)(2) of the Industrial Disputes Act, must be computed on the basis of award or settlement. But, the claim of the petitioners is not based on award or settlement and thus, the petition is not maintainable in law and dismissed the Claim petition. However, liberty was given to the petitioner to move the appropriate forum for redressing the grievance. The order of the Labour Court does not warrant any interference.

8. Accordingly, this Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



TO

The Labour Court
Trichy

+1 CC to Mr.A.HAJA MOHIDEEN, Advocate (SR-4881[F] dated
05/02/2020)

+1 CC to Mr.M.SUBASH, Advocate (SR-5101[F] dated 06/02/2020)

W.P. (MD) No.9635 of 2013
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VB(27.02.2020) 4P 4C