

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.A.NO.133 OF 2020

Kasthuri & Sons Ltd
859-860, Anna Salai
Chennai - 600 002
Rep. Vice President(Legal)

.. Appellant/Petitioner

Vs

1. The State of Tamil Nadu
Rep. by Secretary to Government,
Labour and Employment (I2) Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Commissioner of Labour,
(Conciliation),
DMS Compound,
Teynampet, Chennai - 600 006.
3. The Presiding Officer,
Principal Labour Court, Chennai.
4. S.Madhavan
5. Ravi
6. S.Sankara
7. M.Dhanushkodi
8. P.Raghu
9. P.Prabhu
- 10.P.Venkatesan
- 11.S.Srinivasan
- 12.K.Rajendran
- 13.M.S.Arivodainambi

..Respondents/
Respondents

Prayer:

Appeal filed under 15 of Letters Patent against the order dated 18.10.2019 made in W.P.No.28827 of 2017.

W.P.No.28827 of 2017:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari, calling for the records from the 1st Respondent in respect of G.O.(I.D)No.441, dated 21.07.2016, quash the same.

For Appellant : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.,

For Respondents: Mr.J.Pothiraj,
Special Government Pleader
for R1 and R2
R3 - Court

RR4 to 13 - No Appearance

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

The appellant is the writ petitioner before the learned Single Judge.

2. This case has got a chequered history. The Award of the Wage Board dated 11.11.2011 was challenged before the Apex Court. The Apex Court in Writ Petition (Civil) No. 246 of 2011 dated 07.02.2014 passed an order wherein the operative portion is extracted as under:-

"73. In view of our conclusion and dismissal of all the writ petitions, the wages as revised/determined shall be payable from 11.11.2011 when the Government of India notified the recommendations of the Majithia Wage Boards. All the arrears up to March, 2014 shall be paid to all eligible persons in four equal instalments within a period of one year from today and continue to pay the revised wages from April, 2014 onwards."

3. The dispute arose with respect to the implementation. The question for consideration is the recommendation of the relevant period. Accordingly, the Government Order has been passed in G.O.(ID).No.144, Labour and Employment (12) Department, dated 27.01.2016. The following is the operative portion of the aforesaid Government Order mentioning the issue of reference:

"9. Let us now look into the impugned Reference made by the Government in G.O.(ID).No.441 dated 21.07.2016, which read as follows:

"2. As the quantum of dearness amount payable to the petitioner Thiru S.Madhavan and 181 other employees as per the recommendations of the Majithia Wage Board is disputed the Commissioner of Labour, in the letter second read above, has recommended that the following issue may be referred for adjudication to the Principal Labour Court, Chennai under Section 17(2) of the Working Journalists and other News Paper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

ISSUE OF REFERENCE

To decide whether the Petitioner Thiru S.Madhavan and 181 others are entitled for the difference of dearness allowance for the period from 11.1.2011 as per the Award of the Majithia Wage Board from the management of "The Hindu" Chennai. If so, to what remedy they are entitled to."

4. Before the learned Single Judge, it was contended that the order of the Apex Court cannot be a ground for reference.

5. Learned counsel appearing for the appellant submitted that in the computation petition, earlier the period was modified by the Apex Court has also been included for the purpose of payment of dearness allowance.

6. The party-in-person, who is appearing before this Court submitted that what he wants is the adjudication before the Labour Court.

7. We do not find any merit in this appeal. Therefore, the question for consideration is with respect to the difference of dearness allowance for the period from 11.11.2011. On that basis, the actual relief will have to be worked out. The judgment cannot be read like a statute. Certainly, the order passed required to be interpreted and, therefore, the Labour Court is well within its jurisdiction to decide the reference made. After all, the respondents want the adjudication by a judicial forum on the issue of reference. Thus, we do not find any reason to interfere with the order passed by the learned Single Judge.

8. Accordingly, the writ appeal stands dismissed. However, we left all the issues open to be decided by the Labour Court. We expect the Labour Court not to be influenced by any of the observations made either by the learned Single Judge or by us. No costs. Consequently, connected C.M.P.No.1863 of 2020 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssm

To

1. The Secretary to Government,
Labour and Employment (I2) Department,
Fort St.George,
Chennai - 600 009.
2. The Joint Commissioner of Labour,
(Conciliation),
DMS Compound,
Teynampet, Chennai - 600 006.
3. The Presiding Officer,
Principal Labour Court, Chennai.

+lcc to M/s.T.S.Gopalan and Co., Advocate, S.R.No.26285
+lcc to the Government Pleader, S.R.No.26732

W.A.No.133 of 2020

CA(CO)
CS/09/07/2021

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