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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.18064 OF 2011

K.Raju

... Petitioner

-Vs-

1. The Presiding Officer,
Central Government Industrial
Tribunal-cum- Labour Court,
Shastri Bhawan, Haddows Road,
Chennai - 600 006.
2. The Regional Manager,
Central Bank of India,
Regional Office, Ranga Complex,
No.1/C, Karur Road,
Tiruchirapalli - 620 002.

... Respondents

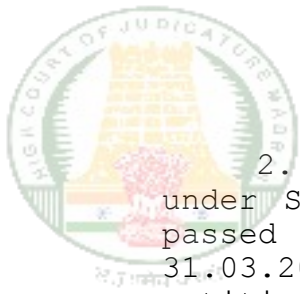
PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari by calling for the records from the files of the First Respondent in C.P.No.4 of 2008 and quash its impugned order made therein dated 31.03.2011 inasmuch as the First Respondent has restricted the petitioner claim for overtime wages at 20 hours an year and 100 hours in all and declined to compute his full claim.

For Petitioner	:	Mr.K.M.Ramesh
For R1	:	Tribunal
For R2	:	Mr.Anand Gopalan, For M/s.T.S.Gopalan & Co.

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. The Industrial Tribunal, while considering the claim made under Section 33C(2) of the Industrial Disputes Act, 1947, has passed the present impugned order in C.P.No.4 of 2008 dated 31.03.2011, by observing that the Tribunal is convinced that the petitioner is not entitled to the claim, without assigning any reason as to how the Tribunal had come to such a subjective satisfaction.

3. While the learned counsel for the petitioner would submit that the order itself is a non-speaking order, the learned counsel for the second respondent would refer to the contentions made by him, which are extracted in paragraph 7 of the impugned order, and submit that the claim made by the petitioner is based on unauthorised action, which is not on the basis of any award or settlement and therefore, no interference is required to the impugned order.

4. While dealing with an application under Section 33C(2), there is a duty cast on the concerned Labour Court/Industrial Tribunal to establish as to how the workman is entitled to receive any monetary benefits from the employer and whenever any question arises as to the quantum of the amount dues, the concerned Labour Court/Industrial Tribunal is required to decide such a dispute under the provision.

5. In the instant case, without going into any of the materials available on record, an order has been passed stating that the Tribunal is convinced that the petitioner is not entitled to the claim. Such a reasoning is found in paragraph 8 of the impugned order, which reads as follows:

"8. Going by the records and the documents and circulars, I am convinced that the petitioner is not entitled to the claim in an outright manner as has been claimed in the petition. He could be found entitled to overtime @ 20 hours an year. On the basis of Ex.W1 to Ex.W11 computation his claim is to be restricted to 100 hours at the rates as computed in Ex.W1 to Ex.W11 and not to anything beyond that. He may work out the amount in this way and may seek to realize the same with interest @ 9% per annum from the date of the CP till date of payment."

6. The aforesaid finding is apparently non-speaking in nature. In the absence of any reasoning as to how the Tribunal was convinced that the petitioner was not entitled, the order itself cannot be sustained. Nevertheless, this Court is of the view that the matter could be remitted back to the first respondent-Tribunal for reconsideration, in the light of the



observations made by this Court.

7. Accordingly, the impugned order dated 31.03.2011 passed by the first respondent herein is quashed and the matter is remitted back to the respondent-Tribunal for reconsideration. The first respondent-Tribunal herein shall consider all the materials on record and after extending due opportunity to the petitioner as well as the second respondent herein, shall pass a speaking order, atleast within a period of three months from the date of receipt of copy of this order.

8. With the above observations, the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

hvk/ata

To

1. The Presiding Officer,
Central Government Industrial
Tribunal-cum- Labour Court,
Shastri Bhawan, Haddows Road,
Chennai - 600 006.
2. The Regional Manager,
Central Bank of India,
Regional Office, Ranga Complex,
No.1/C, Karur Road,
Tiruchirapalli - 620 002.

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.48666

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.48782

W.P.NO.18064 OF 2011

RSV(CO)
PBS/13/10/2021