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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.8.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.24347 of 2003
and
W.M.P.No.29966 of 2003

The Management of Tamilnadu
Electricity Board Rep. By
The Superintending Engineer,
Generation/Hydro Stations,
Tamilnadu Electricity Board,
Kundah Bridge P.O.
The Nilgiris - 643 219.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Coimbatore.

2. V.Chinnasamy

...Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the first respondent, Labour Court, relating to its order, dated 5.7.2002 passed in I.D.No.59 of 1998 and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For Respondent No.1 : Labour Court

For Respondent No.2 : Mr.K.V.Shanmuganathan

O R D E R

The impugned award is passed by the Labour Court pursuant to the claim made by the second respondent herein under



Sec.25-F of the Industrial Dispute Act, 1947. The second respondent herein had sought for recovery of retrenchment compensation by calculating his service from the date of joining in the Board on 1.11.1959 with consequential relief for promotion to the suitable post by taking his continuous service with effect from 1.11.1959.

2. The Labour Court had gone into the aspect of granting retrospective promotion to the second respondent in the post of Time Keeper Grade II.

3. Section 2(A) of the I.D. Act would apply to such individual workman who challenges his non employment whenever such workman is discharged, dismissed, retrenched or otherwise terminated from service and will not apply to any other issues connected to the conditions of service of a workman. For the sake of convenience Sec.2(A) of Industrial Dispute Act is extracted below:

"Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.- Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

4. The Hon'ble Supreme Court in the case of Bharat Heavy Electricals Ltd. v. Anil and others reported in (2007) 1 SCC 610, had clarified by holding that Section 2-A contemplates nothing more than to declare an individual dispute to be an industrial dispute and that section 2-A does not cover every type of dispute between an individual workman and his employer, but would apply to disputes relating to discharge, dismissal, retrenchment or termination of service of an individual workman.

5. In the instant case, the claim in connection with the change in the conditions of service cannot be made as subject matter for claiming compensation under Sec.2(A) of the I.D. Act. Therefore, the award passed by the Labour Court without reference to the above legal aspect cannot be sustained. Consequently, The impugned award passed by the Labour Court, Coimbatore in I.D.No.59 of 1998, dated 5.7.2002 is quashed.



5. In the result, the writ petition is allowed. No costs. Connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Labour Court,
Coimbatore.

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and
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PMK (CO)
SU (21/09/2021)