



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.16565 of 2004

The Management of IOL Ltd.,
(Now Known as BOC (I) Ltd.)
No.75, Vaidhiyanathan Street,
Tondiarpet, Chennai- 600 081
Rep. by its Executive Secretary.

...Petitioner

-vs-

1. The Presiding Officer,
Labour Court, Chennai.

2. G.Kandeepan (deceased)

3. K.Krishnaveni

4.R.Kalaiselvi

5.T.Nirmala

6.K.Muthukumaran

7.K.Sasikumar

(R3 to R7 substituted as LR's of deceased
R2 vide order dated 30.06.2021 made in
WMP.No.21631 of 2020 in W.P.No.16565
of 2004)

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the entire records culminating in the passing of the Award dated 11.03.2004, on the file of the first respondent herein, made in I.D.No.378 of 1995, quash the same.

For Petitioner : Mr.Manohar Gupta

For Respondent : Mr.V.Ajaykhose (R2)

O R D E R

The petitioner has come forward with this Writ Petition, challenging the award dated 11.03.2004, passed by the first respondent in I.D.No.378 of 1995, by which, the Workman was directed to be reinstated in service, with back wages, continuity of service and all other attendant benefits.



2. Mr. Manohar Gupta, learned counsel appearing for the Petitioner / Management submitted that the Second Respondent/Workman was dismissed from service on 31.12.1993 for the proved misconduct. However, the Labour Court, vide award dated 11.03.2004 interfered with the order of dismissal and granted the relief of reinstatement to the Workman with back wages, continuity of service and all other attendant benefits. He further submitted that this Court, vide order dated 01.11.2004 has granted an order of interim stay, subject to the condition that the Management deposits the entire award amount and on such deposit being made, the Workman was permitted to withdraw 50% of the deposited amount and the balance 50% was ordered to be invested in any one of the Nationalised Banks, with permission to the Workman to withdraw the interest once in six months.

2.1. He further submitted that pursuant to the said order, the Workman had withdrawn 50% of the award amount and subsequently, on 02.05.2020, the Workman passed away and his legal heirs were brought on record as Respondents 3 to 7, vide order of this Court dated 29.06.2021. It is averred that since 50% of the deposited amount was already withdrawn, the balance withdrawal of the amount would give quietus to the issue on hand. He fairly submitted that the gratuity amount due to the Workman will be settled within a period of one month from the date of receipt of a copy of this order.

3. Mr. Ajay Khose, learned counsel appearing for the respondents contended that he is not aware as to whether the entire revision has been taken into account, while depositing the amount. However, without prejudice to the rights to claim differences, if any, the Writ Petition may be disposed of.

4. Taking into consideration the submissions made on either side, as the Workman passed away as early as in 2007 and he had also withdrawn 50% of the amount deposited by the Management, pursuant to the interim order of this Court, the award passed by the Labour Court is confirmed, with the following directions:

i) The balance amount lying with the Labour Court together with accrued interest shall be withdrawn by the legal heirs of the deceased Workman;

ii) With regard to the Gratuity amount due to the Workman, the statement made by the learned counsel for the Management that the Management will settle the gratuity amount due to the Workman, within a period of one month from the date of receipt of a copy of this order, is recorded. In case of failure to deposit the gratuity amount, the Workman is entitled to interest



@ 10% from the date of the dismissal of the Workman i.e., 31.12.1993, till the date of disbursement;

iii) Insofar as the Provident Fund and other terminal benefits are concerned, in order to shorten the litigation and in order to avoid foisting of interest and damages by Employees Provident Fund Authorities, when there is no fault on the employer, as the dispute is pending before this Court, the Provident Fund dues upto the date of the dismissal of the Workman shall be paid within 60 days from the date of receipt of the order.

iv) The pensionary and other terminal benefits shall be extended to the legalheirs of the Workman, taking into account the cut-off date as 31.12.1993, i.e., the date of dismissal of the Workman from service and the benefits of Family Pension shall be extended from the date of demise of the Workman to the eligible person.

With the above directions, this Writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

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To:

The Presiding Officer,
Labour Court, Chennai.

+1cc to M/s.Gupta & Ravi, Advocate, S.R.No.34579
+1cc to Mr.V.Ajaykhose , Advocate, S.R.No.34816

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