



IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 26.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.3626 of 2020

P.Krishnan

...Petitioner

Vs

1. Mr.Abishek Modi,
Managing Director,
The Management of
M/s.Jonas wood-head & sons (India) Ltd.,
No.21, Chaitanya Centre,
Khader Nawaz Khan Road,
Chennai-6.
2. M/s.Kavita Naresh Modi
Director,
The Management of
M/s.Jonas wood-head & sons (India) Ltd.,
No.21, Chaitanya Centre,
Khader Nawaz Khan Road,
Chennai-6.
3. Mr.Subramani Sudhakar,
Director,
The Management of
M/s.Jonas wood-head & sons (India) Ltd.,
No.21, Chaitanya Centre,
Khader Nawaz Khan Road,
Chennai-6.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records dated 10.12.2019 in EP.Sr.No.527 of 2019 of rejection passed by the Principal Labour Court at Chennai and quash the same and consequently direct the registry of the Labour Court at Chennai to number the Execution Petition and list the case before the Labour Court at Chennai.

For Petitioner : Mr.R.Jaikumar

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



ORDER

Heard Mr.R.Jaikumar, learned counsel for the petitioner and Mr.Anand Gopalan, learned counsel for the respondents.

2.The petitioner herein is aggrieved against the rejection of his application filed under Section 11(B) of the Industrial Disputes Act, 1947 wherein the petitioner has claimed certain monetary benefits based on an award that was passed by the II Additional Labour Court on 17.04.1995.

3.Incidentally, the petitioner herein had challenged the very same award in a Writ Petition in W.P.No.17174 of 1995 which was dismissed by this Court on 18.06.2003. It is stated that the Writ Appeal filed against this order was also dismissed. It is in this background, the petitioner herein had presented the present application under Section 11(B) of the Industrial Disputes Act, 1947 through which the impugned award was passed.

4.At the outset, this Court is of the view that the present writ petition itself is liable to be dismissed on the ground of delay and latches. The award through which the petitioner claims certain rights was passed in the year 1995. The claim made by the petitioner, alleging execution of the Award, was in the year 2019 i.e. after about 24 years. There is absolutely no explanation as to why the petitioner had waited for all these years to file an execution petition. Though the law of limitation does not apply to industrial disputes or the proceedings under the Industrial Disputes Act, it has been held in various decisions of the Hon'ble Supreme Court, including the decision in Nedungadi Bank Ltd., vs. K.P.Madhavankutty and others reported in 2000 (2) SCC 455, that though no time limit is prescribed to exercise certain powers under the Industrial Disputes Act, the proceedings under the Act cannot be exercised at any point of time to revive matters which had been settled long back. On this ground of delay and latches, the present writ petition itself is liable to be dismissed.

5.This apart, the award through which the petitioner claims certain rights, was actually dismissed on 17.04.1995. Except for an observation in the award that the petitioner herein may be entitled to get an amount under one of the exhibits, there is no other positive direction issued to the Management. Hence the maintainability of the execution petition itself is under question.

6.The learned counsel for the Management had produced a copy of an order issued to the petitioner herein on 19.10.1992



which evidences that the petitioner herein was fully and finally settled with all his dues. Learned counsel for the petitioner attempted to question this document and sought for production of the original. I do not find any bona fide in such a request.

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7.As discussed earlier, the application made by the petitioner is not only liable for rejection under the ground of delay and laches but could also be termed as an attempt to misuse the due process of law. The petitioner's request for the original document, evidencing receipt of the full and final settlement, is misconceived on two counts. Firstly, the Management may not be obliged to maintain the receipt that was issued almost 30 years back, in the year 1992. Secondly, when the petitioner is unable to disprove the receipt produced by the Management, evidencing full and final settlement, the claim for production of the original receipt before this Court, is not a bona fide one. This Court is of the view that the petitioner has only attempted to protract the proceedings further, with an intention to take advantage of possibility of non-availability of the original receipt that was issued about 30 years back.

8.In the light of the above observations, I do not find any infirmity in the reasoning adopted by the Labour Court that the petition is barred by laches and accordingly, the same stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Principal Judge,
Labour Court at Chennai.

+1cc to M/s.T.S.Gopalan & Co, Advocate, S.R.No.43447

W.P.No.3626 of 2020

KSM(CO)
SU(23/09/2021)