



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.30310 OF 2015

AND

W.M.P.NO.2818 OF 2017

R.Suresh Shankar

... Petitioner

-Vs-

1. The Management of M/s.Metheson,
Bosanquet Enterprises Ltd.,
Spring Field Post, Coonoor.

2. The Presiding Officer,
Labour Court, Coimbatore.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 19.06.2015 made in CP.No.114 of 2012 on the file of the Labour Court, Coimbatore and quash the same and consequently allow CP.No.114 of 2012 as claimed by the petitioner and pay back wages with all consequential benefits till reinstatement in terms of award dated 09.01.2003 in I.D.No.243 of 1999.

For Petitioner : Mr.Y.Prakash

For R1 : M/s.A.L.Ganthimathi

For R2 : Court

ORDER

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

2. While the petitioner herein was employed under the first respondent, he was dismissed from services on 05.01.1999,



challenging which, he had raised a dispute before the Labour Court, Coimbatore in I.D.No.243 of 1999. Through an award dated 09.01.2003, the first respondent was directed to reinstate the petitioner together with continuity of service and back wages. The challenge made to this award in W.P.No.22418 of 2003 was dismissed on 27.09.2011. So also, the further appeal against the writ petition order in W.A.No.102 of 2012 was dismissed on 24.02.2012. It is in this background, the petitioner herein had filed a petition under Section 33-C(2) of the Industrial Disputes Act, 1947 in C.P.No.114 of 2012 before the Labour Court, Coimbatore, which came to be ordered by directing the management to pay a sum of Rs.6,10,400/- towards back wages. The petitioner is aggrieved against the computation made by the Labour Court.

3. According to the petitioner, the total amount due to him, by taking into account the award of the Labour Court granting him continuity of service and the consequential back wages, would be Rs.40,16,382/-. After adjusting a sum of Rs.9,67,960/-, which was already received by him from the management, the balance amount now claimed is Rs.30,48,422/-.

4. For the purpose of resolving the dispute amicably, the learned counsel for the management was called upon to file a calculation memo with regard to the petitioner's entitlement and though opportunities were extended on 29.11.2021 and 08.12.2021, it is reported that inspite of written request made, the management had not instructed their counsel with regard to filing of a calculation memo.

5. The calculation memo filed by the petitioner before this Court was perused. The petitioner herein was obviously entitled to claim the back wages on the basis that he was in continuous service, in view of the award passed by the Labour Court. It is on this basis that the petitioner had taken into account the entire back wages from 1999 to 2013 and by including the monetary benefits such as medical, LTC, Bonus @ 20% per annum together with the basic pay along with the Dearness Allowance, he had arrived at the total amount of Rs.40,16,382/-.

6. In the absence of the management failing to give a calculation memo, inspite of due opportunities extended to them, I have no choice except to accept the calculation memo filed by the petitioner. As such, the sum of Rs.30,48,422/-, which is the amount due after adjusting all the part payments already received, is taken as the total amount due to the petitioner for payment of back wages together with continuity of service.

7. Since the order passed in the computation petition did not take into account the continuity of service awarded by the



Labour Court, the amount of Rs.6,10,400 ordered therein may not be correct.

8. In the result, the impugned order dated 19.06.2015 passed in the computation petition in C.P.No.114 of 2012 is quashed. Consequently, there shall be a direction to the first respondent herein to pay a sum of Rs.30,48,422/- forthwith to the petitioner, within a period of 4 weeks from the date of receipt of a copy of this order. However, on the circumstances of the mode in which the present order is passed, the petitioner would not be entitled for interest on the aforesaid payment.

9. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

hvk

To

The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to M/s.A.L.Ganthimathi, Advocate, S.R.No.68523
+1cc to Mr.Y.Prakash, Advocate, S.R.No.68797

W.P.NO.30310 OF 2015 AND
W.M.P.NO.2818 OF 2017

CP(CO)
PBS/30/12/2021