



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15555 of 2021

S.Alexraj

...Petitioner

-vs-

The Management of,
Sir Ivan Stedeford Hospital,
Ambattur, Chennai-600 053.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in C.P.No.79 of 2018 by an order dated 17.03.2021 on the file of II Additional Labour Court, Chennai and quash the same and consequently, direct the respondent to provide money value amounting to Rs.10,26,003/- as difference of salary and other attendant benefits due to the petitioner for the period from 1984 to 2010 of 12% per annum till its realization.

For Petitioner : Mr.P.Saravanan

O R D E R

The petitioner has come forward with the present writ petition challenging the order dated 17.03.2021 made in C.P.No.79 of 2018, on the file of II Additional Labour Court, Chennai and consequently, direct the respondent to provide money value amounting to Rs.10,26,003/- as difference of salary and other attendant benefits due to the petitioner for the period from 1984 to 2010 of 12% per annum till its realization, on the ground of latches.

2.The case of the petitioner is that initially the petitioner was appointed as Medical Technologist in the respondent Management on 05.03.1980. Subsequently, the petitioner was terminated from service on some false allegations on 31.05.1984. Challenging the same, the petitioner filed I.D.No.133 of 1985 on the file of II Additional Labour Court, Chennai and the Labour Court, vide award dated 16.06.1989, set aside the order of termination and directed the respondent Management to reinstate the petitioner with continuity of service, with full back wages and all other attendant benefits. Thereafter, the petitioner was reinstated in the respondent



Management on 01.09.1989 as Clerk, by downgrading his position from Lab Technician. It is further stated that the respondent wilfully disobeyed the order of the Labour Court by reinstating the petitioner as a new appointment without considering the previous experience and salary of Rs.685/- which was received by him at the time of termination. Further, the respondent management preferred the Writ Petition in W.P.No.370 of 1990 before this Court, challenging the award of the Labour Court dated 16.06.1989 and the same was dismissed by this Court on 08.08.1998. Thereafter the petitioner attained superannuation on 03.06.2010. Left with no alternate remedy, the petitioner approached the Labour Court, by filing petition under Section 33 (C) (2) of the Industrial Disputes Act for computation of money value amounting to Rs.10,26,003/- along with interest, which is due to the petitioner from the respondent Management, which was numbered as C.P.No.79 of 2018 and the same was dismissed on 17.03.2021. Challenging the same, this Writ Petition is filed.

3. Heard the learned counsel for the petitioner. Perused the records.

4. Though delay cannot be a ground to deprive computation of wages, a perusal of the order passed by the Labour Court would make it very clear that no proof has been adduced to show as to how the petitioner has arrived at the said sum of Rs.10,26,003/-. The petitioner was appointed in the year 1980 and he was reinstated in service pursuant to the award of the Labour Court dated 16.06.1989. Further, the award granting relief of reinstatement was questioned by the Management, which was rejected by this Court in W.P.No.370 of 1990 on 08.08.1998.

5. Though the petitioner has produced Exs.P28 to P30 with regard to calculation showing the difference of salary between the petitioner and one Mr.N.Subramanian, no documents thereof have been filed on record in support of the calculation sheet, as has been rightly held by the Labour Court. Further, the employee should have called for the documents to produce the same. The petitioner has also attained the age of Superannuation on 03.06.2010 and he has filed a petition to compute the amount, after eight years. Though no time limit has been prescribed for filing petition under Section 33(C) (2) of Industrial Disputes Act, for want of documents alone, Labour Court declined the relief, as there is no pre existing rights to claim differences in salary, after 1989 till 2010.

6. In such view of the matter, this Court is of the view that the employee is not entitled to any relief as prayed for by him. Even if the delay is ignored and the matter is entertained, still there is no evidence, much less substantial evidence to claim the difference sought for by the employee.



7. Hence, I find no merit in this Writ Petition and the same is liable to be dismissed.

8. Accordingly, this Writ Petition is dismissed. No costs. After dismissal of the matter, the learned counsel for the petitioner/workman sought for remanding the matter back to the Labour Court and this Court is not inclined to adhere to the said request, for the reason that if such demand of remand is granted, it will amount to opening a Pandora box, resulting in piling up of cases.

s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1. The Management of
Sir Ivan Stedeford Hospital,
Ambattur, Chennai-600 053.

2.The II Additional Judge
Labour Court, Chennai

+1 CC to Mr.P.Saravanan, Advocate sr 36210.

W.P.No.15555 of 2021

BP(CO)
SP(28/10/2021)