



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.12726 OF 2018
AND W.M.P.NO.14913 OF 2018

The Executive Officer,
Hydro Power House, Tamil Nadu Electricity
Board Now Known as Tamil Nadu Generation and
Distribution Corporation Ltd. Mettur Dam - 1,
Salem District. ...Petitioner

.Vs.

- 1 The Presiding Officer,
Labour Court, Salem.
- 2 M.Chinnadurai
S/o Marimuthu,
Armugham Street, Thengalvarai,
Mettur R.S. - 2 Salem District. ...Respondents

PRAYER:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in REP No. 214 of 2015 in I.D. NO. 444 of 2000 quash the docket order dated 9.5.2018 direct the 1st respondent to entertain and number the two applications dated 02.05.2018 filed by the petitioner.

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

Pursuant to the award dated 17.2.2003 passed in I.D.No.444 of 2000 whereby the Labour Court had directed the respondents to reinstate the petitioner into service within two months with continuity of service with other legally admissible benefits, but without backwages, the Management had challenged the same through a writ petition in W.P.No.31039 of 2004 which came to be disposed of by an Hon'ble Division Bench of this Court on 24.10.2008. The second respondent herein had filed an application under Sec.11-B of the I.D.Act seeking for the execution of the award by seeking backwages. When the Management had challenged the proceedings itself on the ground of maintainability, the same came to be rejected through the impugned docket order 9.5.2018.

2. When the Workman claims any money due from the employer under an award and such money is not quantified, the proper recourse would be to approach the competent authority to seek for computation of the amounts under Sec.33-C (2) of the Industrial Dispute Act. Only in cases where the amount is computed and the Management fails to pay the computed amount to the Workman, execution of the award, as provided under Sec.11-B can be maintained.

3. In the instant case, the Workman, without resorting to seek the remedy under Sec.33-C (2) of the Act, had straight away filed an execution petition under Sec.11-B of the Act, which apparently cannot be sustained. It is needless to point out that when no amount has been quantified under the Award, the concerned Labour Court may not be in a position to execute the award without computation of the money value of the benefit under the award.

4. Thus, the rejection of the petitioner's request to take up the issue of maintainability of the execution petition, as a preliminary issue, may not be proper. Nevertheless, if the Workman is granted liberty to file an application under Sec.33-C (2) of the Act, within a stipulated time, the ends of justice could be secured.

5. In the light of the above observations, the impugned docket order passed by the Presiding Officer, Labour Court, Salem, dated 9.05.2018 in REP No.214 of 2015 in I.D.No.444 of 2000 is quashed. However, the second respondent herein is granted liberty to file an appropriate application under Sec.33-C (2) of Industrial Dispute Act before the concerned Labour Court, within a period of three months from the date of receipt



of a copy of this order.

6. In the result, the writ petition stands allowed accordingly. No costs. Connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vaan

To

The Presiding Officer, Labour Court, Salem.

+1cc to M/s.T.S.Gopalan & Co, Advocate, S.R.No.55737

+1cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.55487

W.P.No.12726 of 2018
and W.M.P.No.14913 of 2018

SMI (CO)
PM/29/11/2021