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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2021

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.35765 of 2019
and
W.M.P.No.36667 of 2019

A.Lourdu Mary

...Petitioner

-Vs-

The Management,
G.Kuppusamy Naidu,
Memorial Hospital,
P.B.No.6327,
Papanayakkan Palayam,
Coimbatore - 641 037.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records in ID.No.128 of 2007 dated 21.02.2018 on the file of the Additional Labour Court, Coimbatore and quash the same.

For Petitioner : Ms.S.Sasikala

For Respondent : Mr.S.Bazeer Ahamed

ORDER

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

2. The petitioner herein is a workman who had opted for the Voluntary Retirement Scheme introduced by the respondent-Hospital, pursuant to a settlement under Section 18(1) of the Industrial Disputes Act, 1947. The petitioner had received compensation as full and final settlement of all her dues, in lieu of her voluntary retirement. The Labour Court had analysed the evidences, both oral and documentary and had come to the conclusion that this petitioner had voluntarily tendered her resignation under the scheme and have also received the



compensation and therefore, is not entitled to raise the dispute.

3. According to the learned counsel for the petitioner, the petitioner herein was coerced to sign the 18(1) Settlement for receiving the full and final dues.

4. Per contra, the learned counsel for the respondent would submit that, under the Voluntary Retirement Scheme, 430 employees had opted for the same, out of which, only 63 of them had raised disputes before the Labour Court and even among that 63, only 24 have filed writ petitions before this Court. The learned counsel would further submit that since the Labour Court has rendered factual findings based on the evidences available on record, this Court should not interfere with the Award.

5. The Hon'ble Supreme Court in Man Singh Vs. Maruti Suzuki India Limited and another reported in (2011) 14 Supreme Court Cases 662, had dealt with a similar situation, where an Industrial dispute was raised by a worker after having received the compensation under a Voluntary Retirement Scheme. While rejecting the claim made by the workman, the Hon'ble Supreme Court placed reliance on its earlier judgement in Ramesh Chandra Sankla Vs. Vikram Cement reported in (2008) 14 SCC 58 : (2009) 1 SS (L & S) 706. The relevant portion of the judgement in Man Singh Vs. Maruti Suzuki India Limited and another reported in (2011) 14 Supreme Court Cases 662, reads as follows:

"...

7. The workmen challenged the order of the Division Bench before this Court inter alia on the ground that having held that the management's appeals were not maintainable, the Division Bench had no jurisdiction to make the impugned direction. This Court repelled the workmen's contention and in paragraphs 100 and 101 of the decision held and observed as follows:- (Ramesh Chandra Sankla Case, (2008) 14 SCC 58 : (2009) 1 SCC (L & S) 706)

"100. Even otherwise, according to the workmen, they were compelled to accept the amount and they received such amount under coercion and duress. In our considered opinion, they cannot retain the benefit if they want to prosecute claim petitions instituted by them with the Labour Court. Hence, the order passed by the Division Bench of the High Court as to refund of amount cannot be termed unjust, inequitable or improper. Hence, even if it is held that a "technical" contention raised by the workmen has some



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force, this Court which again exercises discretionary and equitable jurisdiction under Article 136 of the Constitution, will not interfere with a direction which is in consonance with the doctrine of equity. It has been rightly said that a person "who seeks equity must do equity". Here the workmen claim benefits as workmen of the Company, but they do not want to part with the benefit they have received towards retirement and severance of relationship of master and servant. It simply cannot be permitted. In our judgment, therefore, the final direction issued by the Division Bench needs no interference, particularly when the Company has also approached this Court under Article 136 of the Constitution.

101. For the foregoing reasons, in our opinion, the order passed by the Division Bench of the High Court deserves to be confirmed and is hereby confirmed. The payment which is required to be made as per the said order should be made by the applicants intending to prosecute their claims before the Labour Court, Mandsour. In view of the fact, however, that the said period is by now over, ends of justice would be served if we extend the time so as to enable the applicants to refund the amount. We, therefore, extend the time up to 31-12-2008 to make such payment. We may, however, clarify that the claim petitions will not be proceeded with till such payment is made. If the payment is not made within the period stipulated above, the claim petitions of those applicants will automatically stand dismissed. The Labour Court will take up the claim petitions after 31-12-2008."

8. The present case is squarely covered by the decision of this Court in Ramesh Chandra Sankla (supra). We, thus, find no merit in the submission made on behalf of the appellant that the High Court had no jurisdiction to make a direction for refund of the entire amount received by the appellant as a condition precedent for the reference to proceed."



6. Likewise, a Division Bench of this Court in the case of V.Ramalingam Vs. Presiding Officer, II Additional Labour Court, Chennai and another and R.Sekar Vs. Presiding Officer, Principal Labour Court, Chennai reported in 2007 (1) L.L.N. 265, had held that when the Labour Court comes to a conclusion based on the evidences that there was no coercion on the part of the employers and that the employees had voluntarily opted for the Voluntary Retirement Scheme, the High Court would not ordinarily interfere with such factual findings.

7. The ratio laid down in the aforesaid decision are precisely the ground raised by the petitioner, which have been negatived. If the petitioner was of the view that the Management had coerced her to receive the compensation, she ought to have refunded the compensation before raising a dispute, as held by Hon'ble Supreme Court in Man Singh's case (supra). Likewise, when the Labour Court had found that there was no coercion on the part of the Management in permitting the petitioner herein to go on voluntary retirement, I do not found any reason to interfere into such findings, which is the ratio laid down in the cases of V.Ramalingam (supra) and R.Sekar (supra).

8. In the result, there are no merits in this writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

hvk/ata

To
Additional Labour Court,
Coimbatore.

+1cc to M/s.S.Sasikala, Advocate, S.R.No.54417

W.P.No.35765 of 2019
and
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SVI (CO)
SU(12/11/2021)