



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.12.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.2308 of 2018

G.Nagarajan

...Petitioner

/Vs./

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.M/s.F.D.C.Limited,
No.142-148, Swamin Vivekananda Road,
Jogeshwari,
Mumbai - 400 102.

...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 pertaining to the impugned award passed by the 1st respondent in I.D.No. 13 of 2017, dated 30.05.2017, quash the same insofar as awarding Rs.3 Lakhs towards back wages and compensation in lieu of reinstatement and back wages is concerned, and direct the 2nd respondent to pay full back wages and other amounts payable to the petitioner.

For Petitioner	: Mr.P.Vinoth
	for Mr.R.Subramanian
R1	: Labour Court
For R2	: Mr.Anand Gopalan
	for M/s.T.S.Gopalan & Co.

ORDER

The petitioner challenges an award passed by the Labour Court/R1 in I.D.No.13 of 2017 dated 30.05.2017, passed in terms of the Industrial Disputes Act, 1947, (in short 'Act'). I had, on 25.11.2021 recorded the following after hearing the learned counsel:

"Heard Mr.Aravind, learned counsel for the petitioner and Mr.Anand Gopalan, learned counsel for the second respondent.

2. The award of the Labour Court directs the second respondent/Employer to pay a sum of Rs.3 lakhs towards back wages and compensation within a month from the date of award, failing which, it would carry interest at the rate of 9% from the date of petition till realization.

3. Learned counsel would confirm that the amount of Rs.3 lakhs has been paid vide cheque



dated 26.06.2017 duly received and realized by the petitioner.

4. In such a circumstance, he would state that there is no further relief that could have been granted by the Tribunal and thus the purpose of this Writ Petition is in itself unclear. He confirms the position that by virtue of this order the petitioner is at liberty to seek other service benefits including Provident Fund and Gratuity, which will be considered by the employer in line with the terms of his employment and applicable rules, regulations and statutory provisions.

5. At this juncture, learned counsel for the petitioner would seek a days time to obtain instructions. List on 29.11.2021 to enable him to do so."

2.The argument advanced by learned counsel today is in regard to the payment of back wages for the period from 28.08.2011 up until termination. He would point out that despite reporting for duty on 16.08.2011 as per letter of the employer dated 09.08.2011, he was not permitted to continue in duty and would thus claim entitlement for backwages for the period for which he was, according to him, not permitted to assume charge.

3.Per contra, Learned counsel for the respondents would point out the finding of the fact of the Labour Court to the effect that the petitioner was absent on duty from August 2011 onwards. Be that as it may, Learned counsel would draw my attention to the scope of the dispute before the Labour Court in terms of Section 2A of the Act, which deals with dismissal and its consequences upon an individual workman.

4.Section 2 A of the Act reads as follows:

"2A.Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.

- (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."



5.The scope of an Industrial Dispute is restricted to the correctness or otherwise of an order of discharge, dismissal, retrenchment or termination and or any dispute or difference arising therefrom. Labour Court in the present case has considered the fact that the order of termination is dated 10.07.2014 and the petitioner had attained superannuation in July, 2015. Thus, a sum of Rs.3,00,000/- had been ordered as compensation, which has admittedly been paid to the petitioner.

6. No infirmity per se, is made out as regard the impugned order, which stands confirmed. As regards any other claims that the petitioner may have as against the employer, he is at liberty to pursue the same in a manner known to law, including recourse to the provisions of Section 33C of the Act.

7.This Writ Petition is dismissed granting liberty as above. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer, Labour Court, Tirunelveli.

Copy to

The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-38195[F] dated 10/12/2021)

Order made in
W.P. (MD) No.2308 of 2018
Dated: 09.12.2021

NSN (CO)

TR (01.02.2022) 3P 5C