



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.14344 of 2012

S.Susairaj

..Petitioner

Vs.

1.The Management of Bartyes and Chemicals,
Vanguard House, 4th Floor,
11/12, Second Line Beach,
Chennai - 600 001.

2.The Presiding Officer,
The II Additional Labour Court,
Chennai - 600 104.

..Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned award, dated 16.11.2011 of the II Additional Labour Court, Chennai, the second respondent made in ID.No.144 of 2004 and quash the same as illegal and modify the order as to reinstatement of the petitioner with continuity of service and back wages.

For Petitioner : Mr.K.V.Ananthakrushnan

For R1 : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For R2 : Labour Court

ORDER

The petitioner who claims to be a loader under the respondent Management, challenged his non-employment before the II Additional Labour Court, Chennai, in I.D.No.144 of 2004 and by an Award, dated 16.11.2011, the Labour Court had held that since the petitioner did not establish that he was a workmen under the Management on regular basis, rejected the claim for reinstatement. However, by taking into account the financial difficulties faced by the petitioner, had awarded a sum of Rs.35,000/- as compensation. Aggrieved against the award of compensation, the present writ petition has been filed seeking for consequential prayer of reinstatement with continuity of service and back wages.



2. It is now stated that the petitioner herein had reached the age of superannuation and therefore, the question of granting reinstatement would not arise.

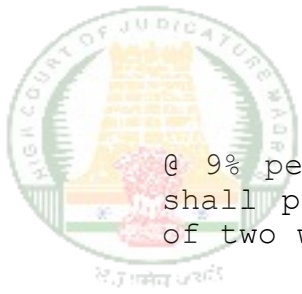
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3. The learned counsel for the petitioner submitted that the Management had produced various payment vouchers in Exs. M-1, M-2, M-9 & M-10, which establishes the wages received by the petitioner and these documents have not been properly appreciated by the Labour Court, while awarding the compensation of Rs.35,000/-. In this background, the learned counsel submitted that the Award of Rs.35,000/-, as compensation is inadmissible and therefore, seeks for enhancement of compensation.

4. Perusal of the documents relied upon the learned counsel for the petitioner, reveals that those documents are mere vouchers and not receipts of wages by the petitioner. The payment received under vouchers need not necessarily be construed as wages, but could also include any other payments other than wages. Thus, a mere reliance on these vouchers, will not establish that the petitioner was receiving wages either on monthly basis or on daily basis from the Management. The award also reveals that the wages of the petitioner in a quantified amount was not established before the Labour Court. Even assuming that this Court intends to enhance the compensation by applying the dictum laid down by the Hon'ble Supreme Court, in the case of O.P.Bhandari Vs. Indian Tourism Development Corporation Ltd., and others reported in 1986 (4) SCC 337, the last drawn wages of petitioner requires to have been established before the Labour Court, which conspicuously is absent in the instant case. The Labour Court had disbelieved the documents before it for the purpose of holding that the petitioner was not regular workmen under the Management. In the absence of any proof of the last drawn wages of the petitioner, this Court is unable to appreciate the claim of the petitioner for enhancement of the compensation.

5. The Management has not chosen to challenge the Award. The learned counsel for the petitioner submitted that the compensation of Rs.35,000/- has not been paid till date to the workmen. While that being so, the non-payment of the compensation, awarded by the Labour Court will attract interest.

6. In the light of the above findings, I do not find any infirmity in the award of the Labour Court. Since it is claimed that the Management has not paid the amount of Rs.35,000/- awarded by the Labour Court, there shall be a direction to the respondent Management to forthwith pay a sum of Rs.35,000/- along with interest from 16.11.2011 i.e., the date of the award



@ 9% per annum, till the date of actual payment. The Management shall pay this compensation along with interest within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands dismissed, with the above direction. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Pns

To

1.The Management of Bartyes and Chemicals,
Vanguard House, 4th Floor,
11/12, Second Line Beach,
Chennai - 600 001.

2.The Presiding Officer,
The II Additional Labour Court,
Chennai - 600 104.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.18096
+1cc to M/s.V.Anantha Krishnan, Advocate, S.R.No.18408

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PMK (CO)
SB(05/04/2022)