



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	21.03.2022
Pronounced on	28.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15861 of 2013
and W.M.P.No.29802 of 2016

Larsen & Toubro Ltd., ECC Division,
Rep. by its Manager - Industrial Relations
Mylam Road, Sedarapet,
Pondicherry - 605111.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Puducherry.

2. D.Ramesh

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records pertaining to the order dated 29.04.2013 passed by the first respondent herein in C.P.No.5 of 2012 and quash the same.

For Petitioner : M/s.Rita Chandrasekar
for M/s.Aiyar & Dolia

For Respondents: R1 - Court
Mr.P.R.Thiruneelakandan [for R2]

ORDER

When the petitioner/Management had denied job to the second respondent along with six others, he had raised an Industrial Dispute in I.D.No.59 of 2001 and by an Award dated 31.01.2003, the Labour Court, Puducherry, had ordered for his reinstatement with effect from 21.08.1998, together with 50% of the back wages and continuity of service, as well as the other attendant benefits. The challenge to the Award in W.P.No.11476 of 2003, was dismissed on 08.02.2011. So also, the further appeal in W.A.No.578 of 2011 was dismissed on 07.04.2011. Thus, the Award of the Labour Court had become final.



2. The second respondent herein, was thereafter reinstated back into service on 28.07.2011 and a sum of Rs.5,38,089/- was received by the second respondent towards 50% of the back wages under the Award in I.D.No.59 of 2001. Since the second respondent claimed that the amount of Rs.5,38,089/- had not covered the 50% of the back wages which he would be entitled to, had he been reinstated back into service from the date of the Award i.e. on 31.01.2003, he had filed a Claim Petition in C.P.No.5 of 2012 under Section 33-C(2) of the Industrial Disputes Act (hereinafter referred to as 'the Act'), before the Labour Court, Puducherry and by an impugned order dated 29.04.2013, a sum of Rs.9,66,855.70, was ordered to be paid. Aggrieved against this order, the present Writ Petition has been filed.

3. The learned counsel for the petitioner/Management submitted that since the second respondent herein had acknowledged in the receipt dated 28.07.2011 that the sum of Rs.5,38,089/- covered the 50% of the back wages and all other attendant benefits and that he had willingly accepted the same without any further dispute, he is estopped from claiming any further amount by way of computation under Section 33-C(2) of the Act.

4. The learned counsel for the second respondent on the other hand, submitted that under the Award, the second respondent was entitled to be reinstated from the date of the Award with full back wages and since the receipt dated 28.07.2011 covers only 50% of the back wages, there is no infirmity in the impugned order passed by the Labour Court. He further submitted that when the other co-workers who were denied jobs along with the second respondent, had the benefit of an Award for reinstatement with 50% of the back wages and when they had filed their Claim Petition respectively, the same was ordered in their favour and when the Management had chosen to challenge these orders passed in the Claim Petitions, this Court by its order dated 08.02.2018 passed in WP.Nos.12563 & 12564 of 2013, had rejected the Management's claim and ratified the order passed by the Labour Court under Section 33-C(2) of the Act, together with 6% simple interest and 12% default interest.

5. The main contention of the learned counsel for the Management is that when the second respondent was reinstated back into service, he had received the 50% of the back wages as ordered under the Award and he had also acknowledged the receipt on 28.07.2011, stating that the amount of Rs.5,38,089/- is towards the amount due under the Award in I.D.No.59 of 2001 dated 31.01.2003 and as per the order of the High Court in W.P.No.11476 of 2003 dated 08.02.2011, without any further dispute to the above referred orders.



6. Under the Award of the Labour Court passed in I.D.No.59 of 2001, the second respondent would be entitled to get half of the back wages from 21.08.1998 till the date of the Award on 31.01.2003 and thereafter, he would be entitled for the full back wages and other attendant benefits. This legal position is not in dispute. Though, the Award was passed on 31.01.2003, the second respondent herein came to be reinstated back into service on 28.07.2011 only. Thus, he would be entitled for full back wages from 01.02.2003 to 26.07.2011. It is in this legal position, the Labour Court had computed the back wages in its order passed under Section 33-C(2) of the Act and accordingly, computed the back wages after deducting the 50% of the back wages which was already paid to the second respondent on 28.07.2011.

7. The entitlement of the second respondent to receive the full back wages from the date of the Award till the date of reinstatement, is not disputed by the petitioner/Management. Such an entitlement is also capable of being computed in terms of money. While that being so, the Labour Court was well within its powers under Section 33-C(2) of the Act to compute the back wages for the period between the Award and reinstatement, which has been done in the impugned order dated 31.01.2003.

8. Merely because the second respondent had executed a receipt acknowledging 50% of the back wages and stating that the same has been willingly accepted by him without any further dispute in connection with the Award under I.D.No.59 of 2001, will not dis-entitle him to make a further claim for his legal entitlement to receive the remaining half of the back wages.

9. The rights vested with a workman to make a claim under the provisions of the Act cannot be curtailed through an acknowledgment or a receipt of full and final settlement, for the purpose of making a further claim for computing his legal entitlement. There is no provision under the Industrial Disputes Act which holds such a receipt or acknowledgment as a bar for making a further claim under Section 33-C(2) of the Act.

10. The Industrial Disputes Act is a Labour Welfare Legislation and cannot be equated to that of other Service Laws. The Hon'ble Supreme Court of India in the case of The Workmen of M/s.Firestone Tyre and Rubber Co. of India (P) Ltd., V. The Management and Others and 3 more appeals reported in 1973 (1) SCC 813, had held that the Industrial Disputes Act, 1947 is a social welfare legislation, enacted by the legislature for the betterment of the employees. The relevant portion of the judgment reads as follows:-

"35. We cannot accept the extreme contentions advanced



on behalf of the workmen and the employers. We are aware that the Act is a beneficial piece of legislation enacted in the interest of employees.

11. Thus, the claim of the Management that the receipt would be an embargo for the second respondent to make a claim, will not override his entitlement under Section 33-C(2) of the Act and by applying the ratio laid down in the aforesaid decision of the Hon'ble Supreme Court that the Industrial Disputes Act is a beneficial piece of legislation enacted in the interest of the employees, the objection of the Management does not require consideration.

12. Viewing the ground raised by the Management from a different angle, it is seen that the receipt dated 28.07.2011 is an acknowledgment of having received 50% of the back wages and other attendant benefits under the Award of the Labour Court in I.D.No.59 of 2001. The receipt does not speak about the second respondent's entitlement to receive the full back wages after the passing of the Award and till his reinstatement. Assuming that the ground raised by the petitioner in this regard to be true, still the second respondent would be entitled to make his claim for the balance of the 50% of the back wages between the Award and reinstatement, since he had not given up his right to make such a claim for the period of his non-employment, after passing of the Award and before reinstatement. Thus, the objection raised by the learned counsel for the petitioner in this regard, cannot be sustained.

13. This apart, when the co-workers of the second respondent, who had a similar benefit of an Award for reinstatement with back wages, had filed their claim under Section 33-C(2) of the Act, the Management had raised similar objections stating that since these workers had accepted 50% of the back wages, they are estopped from making any further claim for computation. On computation, the order came to be challenged by the Management in W.P.Nos.12563 & 12564 of 2013 and this Court by its order dated 08.02.2018, while dismissing the Writ Petitions, directed the Management to pay the balance amount of back wages, together with interest. It was further held therein, that the receipt of the 50% of the back wages will not dis-entitle the workman to file a Claim Petition for their actual entitlement. The relevant portion of the order reads as follows:-

.....

"7. Such a contention of the learned counsel appearing for the writ petitioner is seriously disputed by the learned counsel appearing for the respondents/workmen with the submission that the said contention is fallacious one inasmuch as when a



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reinstatement is not done after the order of the Labour Court, the workmen are entitled to 100% of back wages till the date of reinstatement which is well settled principle of law. Otherwise the award made by the Labour Court can well be frustrated by deferring the reinstatement and making payment of wages at a lower rate, thereby depriving the workmen his genuine wages, which he was entitled to get on reinstatement. As in this case the reinstatement was not done in compliance of the award of the Labour Court, the matter was dragged and complied only at belated stage. The workmen are entitled to the back wages at the rate of 100% from the date of award till their reinstatement and as such the Labour Court having directed the payment of the same in the C.P, these writ petitions challenging the same are devoid of merits. Further more so far as the receipt of the 50% of the wages is concerned the same does not disentitle the workmen to file the C.P claiming their actual entitlement and clarification to the same. The 1st respondent, as such taking note of the aforesaid fact and law when passed the order in the C.P, these petitions, challenging the same, is devoid of merits and liable to be dismissed.

8. It appears in the Industrial Dispute cases in the question, orders were passed 31.01.2003 directing the writ petitioner to reinstate the workmen with 50% back wages 21.08.1998 i.e., from the date of termination till 31.01.2003 with continued service and other attendant benefits as applicable to them as per labour laws. The same was not complied with, the respective Awards were challenged. However, after being unsuccessful in the writ petitions as well as in the writ appeals, the Awards were complied with by the Petitioner/Management belatedly by reinstating the workmen and by paying only 50% of the back wages from the date of termination till reinstatement. Therefore, the workmen claimed back wages from the date Award till the date of reinstatement, i.e., 01.02.2003 to 26.07.2011, at rate of 100% in the Claim Petitions in question. The 1st respondent taking into consideration the law in this regard, in exercise of power u/s 33 C (2) in Industrial Dispute Act held that the workmen are entitled to the same inasmuch as the Labour Court though not specifically directed in the Industrial Dispute raised earlier in this regard, but can interpret the Award for clarification, in view of the law laid down by the Apex Court case in the Central Bank of India Ltd., Vs. P.S.Rajagopalan (1964) 3 SCR



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140/ (1963) 2 LLJ 89 / (1964) o AIR (SC) 743., wherein it has been held that for the purpose of making necessary determination under section 33 C (2) of the Industrial Disputes Act in appropriate cases it is for the Labour Court to interpret the Award or settlement on which the workman's right rest.

9. It is a well settled law that such a claim of the respondent/workmen appears to have sanction of law inasmuch as after the order of reinstatement, if the award is not complied with, the workmen is entitled to 100% wages from the date of award till their reinstatement in as much as the benefit of reinstatement can very well be computed with in terms of money i.e., by directing the payment of 100% entitled wages. Therefore even though not in very many words the aforesaid order was passed in the Industrial Dispute, but in the C.P. the Labour Court having jurisdiction to interpret the award and while interpreting the award, having arrived into the aforesaid conclusion and accordingly directed the writ petitioner/Management to pay the differential amount of 50% and no fault can be found with the same. So far as the waiver of the claim is concerned the acceptance of part of the quantum does not dis-entitle the workmen to file a C.P, claiming the rest of the amount to which they are legally entitled to.

10. Therefore, this Court do not see any illegality / infirmity in the orders passed by the 1st respondent in the aforesaid Claim Petitions warranting interference of this Court.

11. Hence, the writ petitions are devoid of merits and the petitioner/Management is directed to deposit the remaining 50% of the wages of the respondent / workmen from 01.02.2003 till the date of reinstatement i.e., 26.07.2011 quantifying the same with 6% simple interest per annum within three months from today, failing which, they are liable to pay interest at the rate of 12% from the date of award till the payment is made.

12. The writ petitions stands dismissed with the above direction."

14. Learned counsel for the Management does not dispute that the case of the second respondent is similar to that of the workers involved in the aforesaid Writ Petitions and by applying the ratio laid down in the aforesaid decisions, the claim of the



Management cannot be sustained.

15. For all the foregoing reasons, the Writ Petition is devoid of any merits. Accordingly, the Writ Petition stands dismissed. Consequently, the petitioner/Management is directed to pay the amount computed by the Labour Court in the impugned order dated 29.04.2013 passed in C.P.No.5 of 2012 to the second respondent, after deducting the amount, which has already been paid to the second respondent, together with simple interest at the rate of 6% p.a., within a period of three months from today, failing which, they shall pay simple interest at the rate of 12% from the date of the Award till the payment is made. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Labour Court,
Puducherry.

+1cc to M/s.Aiyar & Dolia, Advocate, S.R.No.20544

W.P.No.15861 of 2013

MG(CO)
CT 19/04/2022