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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.20224 of 2013

and MP.No.1 of 2014 & WMP.No.11649 of 2017

M/s.National Trading Co.,
Rep by its Partner,
No.11-A, Errabalu Chetty Street,
Chennai - 600 001.

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Chennai - 600 104.

2.Syed Usman

... 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 impugned order dated 14.05.2013 of the first respondent herein, passed in Claim Petition No.145 of 2007 and quash the said impugned order.

For Petitioner : Mr.A.R.Gokulnath

For Respondents: R1 - Court

Mr.Anirudh B.Menon

for Mr.A.Sikkandar

for M/s.Tatva Legal, Chennai [for R2]

ORDER

Challenging the second respondent's non-employment, he had raised an Industrial dispute before the Principal Labour Court, Chennai, in I.D.No.154 of 1993 and by an Award dated 02.11.2004, the second respondent herein, was directed to be reinstated with back wages and other attendant benefits. Thereafter, the second respondent herein, had filed a Claim Petition in C.P.No.145 of 2007 under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter called as 'the Act'), before the same Labour Court, seeking for computation of a sum of Rs.2,28,930/-, which was due under the Award of the Labour Court. In the Claim Petition, while both the parties have examined themselves as witnesses,



the second respondent herein, had marked the copy of the Award of the Labour Court and a legal notice. The Management had not marked any documents at all. In consideration of the Claim Petition, the Labour Court had computed the second respondent's dues at Rs.1,07,884/-. Aggrieved against the same, the petitioner/Management has preferred the present Writ Petition.

2. It is not in dispute that the original Award, on the basis of which the Claim Petition was filed, was not challenged by the Management and hence, the same has become final.

3. The scope of Section 33-C(2) of the Act, is very limited to the effect that whenever a workman is entitled to receive any money or benefit from the employee and which is capable of being computed in terms of money, the Labour Court shall compute the same and in connection with such computation, if any question arises, such issues would be answered by the Labour Court. It is in this limited scope, the Labour Court had computed the second respondent's claim and passed the impugned order.

4. The learned counsel for the petitioner raised grounds which predominantly touches upon the validity of the original Award of the Labour Court, whereby, the order of dismissal was set aside and the back wages and other benefits were awarded. The learned counsel for the petitioner had attempted to draw the attention of this Court to the evidence of the second respondent in the Industrial Dispute, challenging the dismissal order wherein, he stated that he did not want employment under the petitioner/Management. He also made another attempt to refer to the evidence of the second respondent herein, in which, he had reiterated the same statement given before the Labour Court, while the dismissal order was challenged.

5. These submissions have no relevance for the purpose of interfering with an order passed under Section 33-C(2). As observed earlier, when the Award of the Labour Court has become final, appreciation of the evidence before the Labour Court, while passing such Award, is not permissible while dealing with an order passed under Section 33-C(2). As such, the submissions of the learned counsel for the petitioner, is unacceptable.

6. The learned counsel for the petitioner, also placed reliance on the two decisions of the Hon'ble Supreme Court in the case of 'Manager, R.B.I., Bangalore Vs. S.Mani & others' reported in 'AIR 2005 SC 2179' and in the case of 'U.P. State Brassware Corporation Limited & another Vs. Uday Narayan Pandey' reported in '(2006) 1 SCC 479'. Both these decisions do not arise from cases in which orders were passed under Section 33-C(2) nor has the Supreme Court held any proposition with regard to the scope of interference under Section 33-C(2). On the



other hand, both these cases relate to the ratio under Section 25-F of the Act, as well as the principles of payment of full back wages. Hence, both these decisions are not applicable to the facts of the present case.

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7. Since the petitioner herein, had failed to challenge the Award of the Labour Court, setting aside the dismissal order and the Labour Court had also computed the second respondent's claim in accordance with the Award passed by it, I do not find any infirmity in such findings.

8. At this juncture, the learned counsel for the second respondent submitted that pursuant to the interim orders of this Court, the petitioner/Management had deposited the entire amount of Rs.1,07,884/-, computed in the impugned order before the Labour Court. In view of this, the second respondent herein, is at liberty to make an appropriate application before the Principal Labour Court, Chennai and on receipt of such an application, the Labour Court shall endeavour to pass orders permitting the second respondent to withdraw the full amount, atleast within a period of two (2) days from the date of receipt of an application.

9. With the above directions, this Writ Petition stands dismissed. Since final orders have been passed, permitting the second respondent to withdraw the deposited amount of Rs.1,07,884/-, WMP.No.11649 of 2017 is closed. Connected miscellaneous petition is also closed. No costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

Sni

To

The Presiding Officer,
Principal Labour Court,
Chennai - 600 104.

+1cc to Mr.A.Sikkandar, Advocate, S.R.No.25057
+1cc to Mr.A.R.Gokulnath, Advocate, S.R.No.24690

W.P.No.20224 of 2013

SV(CO)
SB(05/05/2022)