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W.A. No. 779 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2022

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No. 779 of 2016

&

C.M.P. No. 10112 of 2016

E. Sekar

..Appellant

Vs.

1. The Management of Steady Engineers,
561/8, Athipett Road,
Ambattur, Chennai – 58.

2. The Presiding Officer,
II Additional Labour Court,
Chennai – 108.

..Respondents

Prayer: Writ Appeal as against the order dated 21.04.2010 passed in

W.P. No. 13926 of 2001.



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For Appellant :: Mr.S. Ravi

For Respondents :: Mr.D. Vijayakumar for R1
No appearance for R2

O R D E R

S. VAIDYANATHAN,J.

AND

MOHAMMED SHAFFIQ,J.

The present appeal has been preferred by the workman as against the order dated 21.04.2010 passed by the learned Single Judge in W.P. No. 13926 of 2001 interfering with the award of the Labour Court dated 10.01.2001 in I.D. No. 341 of 1992 insofar as it granted reinstatement with full backwages and instead, granted compensation of Rs.60,000/-, in lieu of all claims of the workman including terminal benefits, if any.

2. The case of the appellant/workman is that he joined as a Welder in the respondent's company on 24.11.1980 and he was terminated from service suddenly on 02.04.1989. According to him, neither any enquiry was conducted nor any retrenchment compensation was given. Hence, the



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appellant/workman filed a petition under Section 2-A of Industrial Disputes Act, 1947 before Assistant Commissioner of Labour (Conciliation-I), Chennai alleging denial of employment. As conciliation efforts failed, the Assistant Commissioner of Labour (Conciliation-I) Chennai submitted his failure report on 21.08.1990 and in pursuance of the same, the appellant-workman raised an industrial dispute before the Labour Court in I.D. No. 341 of 1992 over his non-employment and after hearing both parties and on perusing the documents filed, the Labour Court found that the termination of the workman from service was in violation of Section 25-F of Industrial Disputes Act and passed an award granting the relief of reinstatement to the appellant-workman with backwages, continuity of service and other attendant benefits. Aggrieved by the award passed by the Labour Court, the Management approached this Court by way of writ petition and the learned Single Judge has interfered with the award of the Labour Court insofar as it granted reinstatement with full backwages and instead, granted compensation of Rs. 60,000/- in lieu of all his claims including terminal benefits, if any. Challenging the same, the present writ appeal has been preferred by the workman.

3. Before the Labour Court, the workman was examined as P.W.1



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and one Viswanathan, owner of the company examined himself as M.W.1 apart from marking 6 documents as Exhibits M1 to M6. In the industrial dispute raised by the workman, the Management had categorically stated that the employee was not terminated from service and that the employee had asked the Management to settle his accounts as he could not continue to work. There were two letters sent by the Management to the workman asking to come and settle his accounts, but the same had been returned as "undelivered". However, the plea of the Management was not accepted by the Labour Court and on account of non-compliance of Section 25-F, the relief of reinstatement and other benefits were granted.

4. The learned Single Judge, after going through the award and the pleadings of the parties, had observed that the employee had joined service on 24.11.1980 and served till 02.04.1989 and was drawing a sum of Rs. 822/- per month. After the award of the Labour Court, the workman was asked to resume duty, but he did not report for work. Before the Labour Court, the workman had admitted that the Management had offered reinstatement during the pendency of the conciliation proceedings and since the backwages were



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refused, he did not report for work. In the cross-examination, it had been elicited that the workman was not interested in coming to work but claimed only backwages. Learned Single Judge had further observed that though there may be infraction of Section 25-F of the I.D. Act, it is not necessary that in all cases, there should be a direction for reinstatement. In the case on hand, the employee was offered job by the Management during the conciliation proceedings, which fact has been accepted by the workman. He was bent upon claiming backwages as a condition precedent to report for work. He could have joined duty and thereafter, claimed wages.

5. The factum that he was not willing to report for work would clearly show that he was not at all interested in joining duty, but interested in claiming backwages alone. Learned Single Judge, taking note of the fact that the workman had worked for 8 years and his monthly wages was Rs.825/- per month, had rightly ordered compensation of Rs.60,000/- in lieu of all his claims including his terminal benefits.

6. During the pendency of the appeal, the Management had



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produced Banker's cheque bearing No.411884 drawn on Bank of Baroda, Mogappair West, Chennai – 37 dated 17.04.2010 for a sum of Rs.60,000/- payable to the workman. Even prior to the order of the learned Single Judge, it was stated that the learned Single Judge, while hearing the matter, had directed the Management to pay a sum of Rs.60,000/- and that the employee had refused to accept it and returned the said Banker's cheque. Taking note of the conduct of the workman and the fact that the learned Single Judge has correctly arrived at the factum that the employee was not at all interested in coming back to work, but only claiming monetary benefits, we are of the view that there is no error in the order passed by the learned Single Judge warranting interference. The employee should have reported for work and continued to question the non-employment period and depending upon the award, he could have claimed wages, if the award had been passed in favour of the employee. It is needless to mention that if the employee is willing to accept the amount of Rs.60,000/- offered by the Management, he could make a request by means of a letter by registered post and the said amount can be disbursed to the employee within 10 days from the date of receipt of such request.



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WEB COPY 7. The writ appeal is dismissed with the above direction. No costs.

Connected C.M.P. Is closed.

nv

(S.V.N.J.) (M.S.Q.J.)
22.12.2022

To

The Management of Steady Engineers,
561/8, Athipett Road,
Ambattur, Chennai – 58.

S. VAIDYANATHAN,J.



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