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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	11.01.2022
PRONOUNCED ON	:	25.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY
AND
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.NO.3080 OF 2021

Management Tamil Nadu Slum Clearance Board,
(Now renamed as Urban Habitat Development Board),
No.5, Kamarajar Salai,
Chennai - 600 005. ...Appellant / Petitioner

vs

S.Sundarraman ...Respondent / Respondent

Appeal preferred under Clause 15 of Letters Patent against the order dated 15.10.2019 made in W.P.No.31289 of 2018.

Prayer in W.P.No.31289 of 2018 : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 1st Additional Labour Court's order dated 05.04.2018 in Claim Petition No.76 of 2016 and quash the same.

For Appellant : Mr.P.Kumaresan,
Additional Advocate General,
assisted by
Mr.R.Krishna Prasad

For Respondent : Mrs.Kanimozhimathi
(Caveator)

JUDGMENT

(Per: PARESH UPADHYAY, J.)

Challenge in this appeal is made by the Management to the order dated 15.10.2019 recorded on W.P.No.31289 of 2018 with W.M.P.No.36474 of 2018.

2. Learned advocate for the appellant has submitted that the impugned order passed by learned single Judge is erroneous



and the same be interfered with. Serious grievance is made that though the workman was not entitled to any relief, Labour Court granted the same, which learned single Judge ought to have interfered with which is not done and therefore this appeal be entertained. It is noted that the learned advocate has extensively taken this Court through the pleadings before the writ court and has also taken this Court through the reasons recorded by the Labour Court in the order impugned in the writ petition. It is submitted that the appeal be entertained.

3. On the other hand, learned advocate for the respondent/workman has submitted that though the workman has crossed the age of superannuation before more than a decade, even now not only his legal dues are not paid but even pensionary benefits are also not finalised. It is submitted that learned single Judge can not be said to have fallen in any error while recording the impugned order and therefore no interference be made in this appeal.

4. It is noted that this appeal was heard along with W.A.No. 34 of 2022 and W.A.No. 36 of 2022 and separate orders are being recorded on those appeals.

5. So for the present appeal is concerned, having heard the learned advocate for the appellant and learned advocate for the respondent/ workman, this Court finds as under:

5.1 The subject matter of this appeal is, whether any interference is required in the order passed by learned Single Judge dismissing the writ petition filed by the Management challenging the order of the Labour Court dated 05.04.2018 in Claim Petition No. 76 of 2016. For this purpose it would be necessary to decide whether the workman was entitled to any back wages at all. Therefore it would be necessary to verify what has happened to the award of the Labour Court granting reinstatement with back wages. It is noted that the very reinstatement of the workman is questioned by the Management which is the subject matter of W.A.No.36 of 2022.

5.2 If the reinstatement of the respondent / workman is interfered with, he would not be entitled to back wages. But if W.A.No.36 of 2022 is dismissed, as the necessary consequence no interference can be made in the order of the Labour Court dated 05.04.2018 in Claim Petition No. 76 of 2016.

5.3 We note that W.A.No.36 of 2022 is dismissed today by a separate order. The reinstatement of the workman with consequential benefit is not interfered with by the said order. As the necessary consequence, no interference needs to be made in this appeal as well.



5.4 The reasons recorded in the order dismissing W.A.No.36 of 2022 be treated as additional reasons for dismissing this appeal as well.

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6. At this stage, it is noted that pursuant to the order of the Labour Court amount is already deposited with the Labour Court. If the same is not withdrawn so far, it is open to the respondent / workman to withdraw the same.

7. For the above reasons, this writ appeal (W.A.No.3080 of 2021) is dismissed, with the liberty to the workman / clarification that, it is open to the respondent / workman to withdraw the amount deposited by the appellant / Management with the Labour Court pursuant to the order of the Labour Court dated 05.04.2018 in Claim Petition No. 76 of 2016, if the same is not withdrawn so far by the workman. No costs. Consequently, connected miscellaneous petitions are disposed of.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1.The Management,
Tamil Nadu Slum Clearance Board,
No.5, Kamarajar Salai,
Chennai - 600 005

2.The 1st Additional Labour Court,
Chennai.

+1cc to M/s.S.S.Jayanthi, Advocate, S.R.No.4262

+1cc to M/s.Kanimozhi Mathi, Advocate, S.R.No.4408

W.A.No.3080 of 2021

PMK(CO)
RVM(16/02/2022)