



W.P.(MD)No.10305 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2022

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.10305 of 2014

and

M.P.(MD)Nos.1 and 2 of 2014

Arumugam,
The General Manager,
The Management,
PRP Exports Canteen,
Ammankovilpatty,
Keelavalavu,
Melur Taluk,
Madurai District.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Madurai.

2. S.Ramachandran

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the impugned award in I.D.No.68 of 2010 dated 11.06.2013 on the file of the first respondent and quash the same.



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For Petitioner : Mr.T.Kumar
For Respondents : Mr.B.Thangamani for R2
No appearance for R1

ORDER

The impugned award passed by the first respondent in I.D.No.68 of 2010 dated 11.06.2013 is under challenge in the present Writ Petition.

2. The learned counsel for the petitioner submitted that the second respondent cannot be reinstated for the reason that the petitioner Company has been closed down and therefore, the compensation ordered by the Labour Court is unjust. As per Section 25FFF of Industrial Disputes Act, 1947, if an undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25F shall not exceed his average pay for three months. Therefore, the lumpsum compensation awarded by the Labour Court is not correct for the reason that the second respondent was drawing only a sum of Rs.4,480/- per month as wages.



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3. In response, the learned counsel for the second respondent submitted that the lumpsum compensation was awarded on the basis of power vested with the Labour Court under Section 11A of the Industrial Disputes Act. The second respondent had worked under the petitioner for three years and he was terminated from service without any monetary benefits. In the said circumstances, the lumpsum compensation of Rs.60,000/- awarded by the Labour Court is just and proper. Thus, he prayed for dismissal of this petition.

4. This Court considered the rival submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

5. It is seen from the award of the Labour Court that though the petitioner had taken a plea that there was no relationship of employer and employee between the petitioner and the second respondent, the Labour Court, on the basis of Attendance Register, Salary Note, Inspection Note,



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Daily Ledger and other Account Books available at South Street Canteen and Keelavalavu Canteen, came to the conclusion that the second respondent was an employee under the petitioner. Finding that the Company of the petitioner was closed, the Labour Court has awarded lumpsum compensation of Rs.60,000/- to the second respondent.

6. Section 25FFF of the Industrial Disputes Act, 1947 reads as follows:

"25FFF. Compensation to workmen in case of closing down of undertakings.- (1) Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2), be entitled to notice and compensation in accordance with the provisions of section 25F, as if the workman had been retrenched:

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the



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workman under clause (b) of section 25F shall not exceed his average pay for three months."

7. As per proviso to Section 25FFF of the Industrial Disputes Act, the compensation to be paid to the workman should not exceed his average pay of three months under Clause (b) of Section 25F. Hence, this Court is of the considered view that two things have to be satisfied to come within this provision. Firstly, it must be shown that the workman was employed immediately before the closure of undertaking. Secondly, the closure of business was on account of unavoidable circumstances beyond the control of the employer. However, the petitioner is not able to prove any of these conditions exist to claim the benefit under Section 25FFF of the Industrial Act.

8. Section 11A of the Industrial Disputes reads as follows:

"Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen:-



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Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter."

9. This provision empowers the Labour Court to give such other relief to the workman as circumstances of the case may require. In the case on hand, it is apparent from the records that the Labour Court by invoking



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Section 11A of the Industrial Disputes Act, awarded lumpsum compensation of Rs.60,000/-. Considering the nature and facts and circumstances of the case, this Court finds that the award of lumpsum compensation of Rs. 60,000/- is just and proper, and therefore, this Court does not want to interfere with the award passed by the Labour Court.

10. Accordingly, this Writ Petition is dismissed and the award of the Labour Court in I.D.No.68 of 2010 dated 11.06.2013 is confirmed. No costs. Consequently, connected Miscellaneous Petitions are closed. It is made clear that if the amount is already deposited by the petitioner and it is open to the petitioner to withdraw the amount by filing a proper petition.

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Index : Yes / No

Speaking Order : Yes / No

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To

The Presiding Officer,
Labour Court,
Madurai.



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