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W.P.No.38220 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.38220 & 38221 of 2006 and W.P.No.4548 of 2018

and W.M.P.No.5599 of 2018

The Management
Idappadi Municipality
Idappadi

.. Petitioner
(in all Petitions)

Vs.

1.A.Kadhirvel

2.The Presiding Officer,
Labour Court,
Salem.

.. Respondents
(in all Petitions)

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate writ or order or direction in the nature of writ calling for the records relating to the order of the 2nd respondent in C.P.No.2 of 1997 dated 01.07.2004 and quash the same.



W.P.No.38220 of 2006

For Petitioner

: Mr.P.P.Shanmugasundaram
in W.P.No.38220 & 38221 of 2006

: Mr..V.Jayaprakash Narayanan
in W.P.No.4548 of 2018

For R-1

: Mr.K.V.Shanmuganathan
(In all petitions)

COMMON ORDER

Since, the issue arises in all the Writ Petitions is one and the same, all these petitions are disposed of by way of this common order.

2. The Writ Petitions in W.P.Nos.38220 & 38221 of 2006 have been filed assailing the impugned order of the 2nd respondent/Labour Court in C.P.No.2 of 1997 & C.P.No.477 of 2004.

3. The Writ Petition in W.P.No.4548 of 2018 has been filed challenging the order of the 2nd respondent in R.E.P.No.164 of 2015 in I.D.No.153 of 1995.



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4. It is the case of the petitioner that the 1st respondent/workman who was working as a daily wage worker in the petitioner management, had raised an Industrial Dispute in I.D.No.153 of 1995 under Section 2(A)-2 of the Industrial Disputes Act, 1947 before the 2nd respondent/Labour Court as against his termination from the services of the petitioner management from 21.10.1994, wherein the Labour Court ordered for reinstatement with back wages, against which, the petitioner filed a Writ Petition in W.P.No.1983 of 1997 before this Court, which was dismissed with a direction to the petitioner to reinstate the workman into service along with backwages. Aggrieved by which, the petitioner preferred a Writ Appeal before the Division Bench of this Court, which was also dismissed. Subsequently, the workman filed a Computation Petition in C.P.No.2 of 1997 before the Labour Court under Section 33(C)-2 of the Act, claiming salary for the Period from 01.06.1996 to 31.12.1996 which was allowed in favour of the workman. Challenging the same, the Writ Petition in W.P.No.38220 of 2006 has been filed.



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5. Subsequently, the 2nd respondent/Workman had filed another claim petition in C.P.No.477 of 2004 under Section 33(C)-2 of the ID Act claiming wages for the Period from 01.01.1997 to 31.08.2004, which was allowed in favour of the Workman directing the petitioner to pay a sum of Rs.4,34,593/- towards the claim made in the petition. Challenging the same, the Writ Petition in W.P.No.38221 of 2006 has been filed.

6. Alleging non-compliance of the orders passed by the Labour Court, the 2nd respondent/Workman filed an execution petition in R.E.P.No.164 of 2015 in I.D.No.153 of 1995 claiming wages for a sum of Rs.21,88,000/- for the period from 01.09.2004 to 30.04.2015, wherein, the petitioner was directed to make the aforesaid payments within 11.04.2016 failing compliance of which, would result in detainment of the petitioner in civil prison. Challenging the same, the Writ Petition in W.P.No.4548 of 2018 has been filed.



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7. Learned counsel for the petitioner submitted that the operation of the impugned orders in the above Writ Petitions have been stayed by this Court in W.P.Nos.38220 & 38221 of 2006, subject to the condition that the petitioner deposits a sum of Rs.16,380/- along with interest at the rate of 6% to the credit of C.P.No.2 of 1997 and 50% of the award amount in C.P.No.477 of 2004. Accordingly, the petitioner had deposited the entire amount as ordered by the Labour Court and also the 50% of the award amount in C.P.No.477 of 2004. Despite compliance of the aforesaid orders, the 2nd respondent filed an execution petition in R.E.P.No.164 of 2015 claiming wages for a sum of Rs.21,88,000/- which is not sustainable.

8. The Writ Petition in W.P.No.4548 of 2018 has been filed on the sole ground that the execution petition cannot be filed without filing the claim petition. However, the Labour Court, without ascertaining the maintainability of the execution petition in R.E.P.No.164 of 2015, has allowed the petition. Pursuant to the order passed in R.E.P.No.164 of 2015, a sum of Rs.10,00,000/- was deposited by the Commissioner of Edappadi



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Municipality on 04.04.2016.

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9. This Court heard the learned counsel appearing the 1st respondent/Workman and perused the materials available on record.

10. Admittedly, the 1st respondent/Workman was terminated from the services of the petitioner management, which prompted the workman to raise an Industrial Dispute under Section 2A-(2) of the Industrial Disputes Act, 1947 wherein, the Labour Court has ordered for reinstatement with backwages. Subsequent to the said order, claim petitions in C.P.No.2 of 1997 & C.P.No.477 of 2004 were filed by the workman claiming wages, which were allowed in favour of the workman.

11. It is the stand of the learned counsel for the petitioner that the entire amount of Rs.16,380/- along with interest at the rate of 6% has been deposited as ordered by the Labour Court in respect of C.P.No.2 of 1997, the 1st respondent/workman is entitled to withdraw the said amount. Insofar as the Writ Petition in W.P.No.38221 of 2006, the Labour Court has



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ordered the claim of the workman to the tune of Rs.4,34,593/- with interest at the rate of 6% in C.P.No.477 of 2004, out of which, the petitioner claims to have deposited 50% of the award amount to the credit of C.P.No.477 of 2004. However, the order passed in R.E.P.No.164 of 2015, in which deposit to the tune of Rs.10,00,000/- has been made is wholly a misconceived order as there was no claim on the basis of which computation petition could be filed. In such circumstances, the Labour Court is directed to adjust the balance 50% of the award amount payable in C.P.No.477 of 2004 from the deposit made by the petitioner to the extent of Rs.10,00,000/-. The Labour Court is directed to disburse the amount to the extent payable to the workman from out of the deposits made in C.P.No.477 of 2004 in R.E.P.No.164 of 2015 and the balance amount in deposit shall stand refunded to the petitioner.

12. Insofar as the Writ Petition in W.P.No.4548 of 2018, which is against the order passed in R.E.P.No.164 of 2015, it is to be pointed out that there is no claim which has been allowed based on which execution could be carried out. In the absence of any claim and adjudication thereupon



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filing of R.E.P.No.164 of 2015 is wholly misconceived. Hence, this Court is inclined to set aside the impugned order of the Labour Court in R.E.P.No.164 of 2015 and accordingly, the same is set aside.

13. Accordingly, the Writ Petitions in W.P.Nos.38220 & 38221 of 2006 stands disposed of with the aforesaid direction and the Writ Petition in W.P.No.4548 of 2018 is allowed in the aforesaid terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition in W.M.P.No.5599 of 2018 is closed.

14.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

The Presiding Officer,
Labour Court,
Salem.



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M.DHANDAPANI, J.

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