



W.P.No.33382 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.01.2023
CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.33382 of 2005

K.Venugopal

.... Petitioner

vs

1. The Chairman,
Madras Port Trust,
Rajaji Salai,
Chennai - 1.

2. The Presiding Officer,
Central Government Labour Court,
(High Court Campus),
Chennai - 600 104.

.... Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorari to call upon the production of the records relating to the order dated 15.03.2004 made in C.C.P.No.44 of 1997 passed by the 2nd respondent herein and quash the same.

For Petitioner : Mr.S.Senthilnathan

For respondents : Mr.M.R.Dharanichander for R1
R2-Court



W.P.No.33382 of 2005

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ORDER

This Writ Petition has been filed challenging the order dated 15.03.2004 passed by the 2nd respondent in the claim petition, rejecting the claim made by the petitioner.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent.

3. Learned counsel for the petitioner would submit that the only grievance of the petitioner is that though an award has been passed in I.D.No.40 of 1989 in favour of him directing the 1st respondent herein to reinstate him in service and to give him continuity of service and all other benefits including backwages, the 1st respondent/Port Trust has reinstated him in service and also granted backwages, but not granted other benefits as directed by the Labour Court in I.D.No.40 of 1989.

4. On the contrary, the learned counsel for the 1st respondent would submit that the petitioner was paid the backwages but he was not paid with production linked incentive, travelling allowance, washing allowance, earned leave allowance, rest day allowance, Night allowance, Holiday



W.P.No.33382 of 2005

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allowance and bonus for the interregnum period of discharge till the date of his reinstatement in service inasmuch as the said allowances are considered to be attached to the duty performed by an employee and the petitioner who was under discharge till his reinstatement was not eligible for the aforesaid benefits. Therefore, the Labour Court has rightly rejected the Claim Petition filed by the petitioner and hence, the same need not be interfered with.

5. This Court, considered the rival submissions and perused the entire materials available on records.

6. When a workman is ordered to be reinstated, it means that he has been restored and relegated to his original position when he was dismissed. The workman is deemed to be in continuous service as if his services were not terminated. Therefore, he is entitled to all the claim connected with his employment. He cannot be denied his legitimate claim for bonus also for no fault of his own. He is entitled to bonus and all other benefits as if his services had not been terminated. If the workman, on his own did not actually work in the establishment for the prescribed period, it would be altogether a different point but when he is ready and willing to work but was



W.P.No.33382 of 2005

unable to do so for the reasons beyond his control, he cannot be made to suffer. Likewise, his claim for leave wages cannot also be denied. When the workman was illegally prevented from working and earning leave which he would have taken and enjoyed or encashed, the wages due to him cannot be denied on account of not being able to earn leave and encash it. In the award pass in I.D.No.40 of 1989, no benefit has been withheld. The Labour Court has directed to reinstate him in service and to give him continuity of service and all other benefits including backwages. Therefore, this Court is of the view that the order passed by the 2nd respondent has to be set aside.

7. In view of the above discussion, the Writ Petition stands allowed. The order passed by the 2nd respondent dated 15.03.2004 is set aside. The first respondent is directed to pay the bonus, earned leave and other allowances as claimed by the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs.

31.01.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

4/6



W.P.No.33382 of 2005

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To

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W.P.No.33382 of 2005

J.NISHA BANU,J.

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W.P.No.33382 of 2005

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