



W.P.No.3910 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.3910 of 2005

and

W.P.M.P.4375 of 2005

M/s.Shaw Wallace & Co.Ltd,
38, Rukmani Lakshmipathy Salai,
Egmore, Chennai 600 008.
Represented by Authorised Signatory
S.R.Ashraf

... Petitioner

-Vs-

1.The Presiding Officer,
Labour Court, Chennai.

2.V.S.Vaidyaraman (Deceased)

3.V.V.Sethuraman

4.V.V.Santharaman

5.Soundari Rajamani
(R3 to R5 substituted as
LRs of deceased R2:V.S.Vaidyaraman
as per order dated 26.10.2016
in W.M.P.No.266 of 2013
in W.P.No.3910 of 2005)

... Respondents



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Prayer:- Writ Petition filed under Article 226 of Constitution of India praying for the issuance of Writ of Certiorari, to call for the records and quash the order dated 30.06.2004 in C.P.No.320 of 1997 on the file of the first respondent, Presiding Officer, Principal Labour Court, Chennai.

For Petitioner : Mr.S.Ravi, Senior Counsel
for M/s Gupta and Ravi

R1 : Tribunal
R2 : Died (Steps taken)
R3 to R5 : Not ready in notice
No appearance

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in C.P.No.320 of 1997 dated 30.06.2004, thereby directing the petitioner to pay a sum of Rs.1,42,589/-.

2. While pending the writ petition, the claimant viz., the second respondent herein died, due to which, the legal heirs of the deceased second respondent were impleaded as R3 to R5.

3. Heard the learned counsel for the petitioner and perused the materials available on record.



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4. The case of the petitioner is that the second respondent filed C.P.No.320 of 1997 under Section 33(C)(2) of the Industrial Disputes Act, 1947 claiming that he was one of the Executives promoted from Clerical cadre and retired from service as Special Cadre Executive. He is entitled for Special Cadre Executive from 01.11.1968. From 01.01.1991, his monthly pension is being paid through the petitioner by arrangement with Calcutta office. In the letter, he found that there was economical error, that a sum of Rs.420/- had been short, out of Rs.1,260/- as Additional Dearness Allowance. Therefore, the petitioner submitted a representation and it was not considered. Hence, the petitioner filed a Computation Petition under Section 33(C)(2) of the Industrial Disputes Act, 1947 claiming a sum of Rs.1,42,589/-.

5. Further, the case of the petitioner was that the Management failed to add regular additional monthly average Dearness Allowance of Rs.35/- due to every month. The Addition amount for every year of Rs.35/- was over looked for many years, but only added as and when the firm allegedly receiving the date on cost of living Indica from



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Government only after absurd, a cold lie having no bearing at all on the practice of regular Government cost of living Indice every month.

6. The petitioner Management had taken a specific plea that the claim petition itself is not maintainable in law, since no money is due and payable to the deceased claimant. Admittedly, the claim petition was filed for enhanced arrears of Dearness Allowance along with pension amount payable to the claimant from 1994 onwards. Due to non-availability of the petitioner, the petitioner could not calculate the arrears of Dearness Allowance along with the pension amount and pay the same to the claimant. Later, the Management obtained the Urban Non-Manual Consumers Price Index from the appropriate authority and as per the said manual, the claimant was entitled for a sum of Rs.3,570/- as arrears of Dearness Allowance along with the pension amount. Immediately, it was disbursed to the claimant by the Cheque dated 04.11.1997. It was duly received by the claimant and acknowledged the same. The claimant failed to disclose, the basis on which he had arrived at the said amount and it may be claimed an exorbitant amount more in hope rather than based on any legal right. However, without considering the same, the



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first respondent mechanically allowed the petition and ordered to pay a sum of Rs.1,42,589/- to the deceased claimant.

7. Further, the deceased claimant was employed as Local Assistant in Sales Department and retired on 01.11.1968 voluntarily. He was a member of Shaw Wallace Associated Companies Covenanted Staff Superannuation Funds. The Trustees of the pension fund sanctioned to him, a consolidated pension of Rs.700/- per month with effect from 01.11.1968 without any Dearness Allowance. On receipt of several representations from the employees, the Board of Directors considered the revision of the existing pension rules applicable to the executive staff and approved the same in the Board meeting held on 20.11.1974. Accordingly, the guidelines for periodical review of cost of living allowance to executive pensioners was fixed by the Board. In terms of the same, it was decided to review the pension every year, namely, in the first quarter of the year and 75% neutralisation was proposed to be made subject to a maximum of 5% in any one of the years. The cost of living index was based on the All India Urban Non-Manual Consumer Price Index. In terms of the revised rules which came into force with effect



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from 31.12.1974, the deceased claimant was also been paid with the Dearness Allowance with periodical revision. However, non availability of All India Urban Non-Manual Consumer Price Index, there was no revision in pension and thereafter when it was published in the year 1997, the claimant was granted Dearness Allowance of Rs.3570/- as arrears of Dearness Allowance for the period from 01.01.1994 to 31.10.1997.

8. While being so, without any calculation and without any basis, the deceased claimant made a claim and unfortunately the Labour Court without any evidence, mechanically allowed the claim petition and ordered to pay a sum of Rs.1,42,589/-. That apart, in terms of Section 33(C)(2) of the ID act, it is obligated to compute the monetary relief in terms of money, in the sense that the Labour Court is obliged to calculate the entitlement of a workman to the monetary relief.

9. Therefore, without any adjudication, the Labour Court cannot order the claim of arrears of Dearness Allowance, that too for a period from 01.11.1980 to 31.12.1994. Further, the Labour Court also awarded



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the interest at the rate of 18% per annum, for the arrears of Dearness Allowance.

10. Therefore, the Labour Court has no jurisdiction to pass an award in the Computation Petition without any adjudication and it is liable to be quashed. Accordingly, the order passed by the first respondent, in C.P.No.320 of 1997 dated 30.06.2004 is hereby quashed. This writ petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

The Presiding Officer,
Labour Court, Chennai.

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