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W.P. No.25319 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.25319 of 2012

The Deputy General Manager
Indian Bank
Circle Head Circle
46-51 Katpadi Road
Vellore 632004.

... Petitioner

Vs.

1.The Presiding Officer
The Central Government Industrial
Tribunal cum Labour Court,
Shastri Bhavan,
Haddows Road
Chennai 600 006.

2.The General Secretary
Indian Bank Employees Union
20, 2nd Line Beach
Chennai 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, calling for the records relating to the Award of the 1st respondent dated 02.05.2011 made in I.D.No.11 of 2009 and quash the same.



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For Petitioner : Ms.N.Varsha for M/s.Aiyar Dolia

For Respondents

R1 : Court

R2 : Mr.K.M.Ramesh,
Senior Counsel for M/s.S.Apunu

ORDER

This writ petition has been filed seeking writ of certiorari, calling for the records relating to the award dated 02.05.2011 passed in I.D.No.11 of 2009 on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai.

2. The dispute was taken on record, at the instance of the respondent No.2 Union, concerning the payment of wages to one Smt.Lakshmi, who worked as Sweeper with the petitioner Bank since 1982, i.e. from the inception of the said branch. It is the claim of the 2nd respondent that in terms of Circulars No.IRD/2/80 dated 28-10-1980 and IRD/3/80 dated 18-11-1980 (herein after referred to as 'said circulars'), the said Smt.Lakshmi is entitled to one-third of scale wages, but she was not paid the said wages in terms of the said Circulars. At the instance of the said Smt.Lakshmi, the respondent No.2 Union raised a dispute and the same was examined by the



learned Labour Court and it came to the conclusion that the said Smt.Lakshmi was entitled to regularization of services and other benefits, including one-third wages as claimed before the learned Labour Court.

3. From a perusal of the material on record, including the impugned award, it is noticed that the petitioner Bank has expressed its readiness to pay one-third wages in terms of the said Circulars, prospectively with effect from the year 2006, that is when the claim was made on behalf of the Smt.Lakshmi, Sweeper. From the said submission made by the petitioner Bank, it is evident that the Smt.Lakshmi is entitled for one-third scale wages in terms of the said Circulars. But the same was denied to the said Smt.Lakshmi, though the said Circulars was in operation since the inception of the petitioner Branch. As against the claim made by the respondent No.2, for payment of one-third scale wages, the learned Labour Court has gone deep into the matter and recorded certain findings declaring that the services of Smt.Lakshmi as Sweeper were deemed to be regularized, entitling her to claim normal benefits on par with the status of the regularized workmen.



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4. The learned counsel appearing for the petitioner strenuously contented that the learned Labour Court has gone beyond the scope of reference as the entitlement of the said Smt.Lakshmi for regularization of her services is not the subject matter of the reference that came up for adjudication before the learned Labour Court, but, the learned Labour Court without there being any reference and without having jurisdiction, recorded the findings adverse to the interest of the petitioner Bank, by declaring that the services of the petitioner are deemed to have been regularized.

5. This Court has thoroughly gone through the contents of the award, including the issues that were framed for consideration and the claim made by the respondent No.2 Union and is thoroughly convinced that the issue of regularization or otherwise of the services of the said Smt.Lakshmi is not the subject matter of the reference before the learned Labour Court. The only issue for consideration, pursuant to the claim made by the respondent No.2 Union, is about the entitlement of Smt.Lakshmi to claim of one-third of the scale wages from the date of her appointment in the year 1982, in terms of the said Circulars and in the light of the consent given by



the petitioner to pay one-third of scale wages prospectively by the respondent

No.2.

6. In the light of the detailed observations and findings recorded by the learned Labour Court with regard to the entitlement of Smt.Lakshmi for payment of one-third scale wages in terms of the said Circulars, this Court does not find any reason to interfere with the findings recorded by the learned Labour Court. However, findings and conclusions that are recorded by the learned Labour Court with regard to the entitlement of Smt.Lakshmi about deemed regularization and the consequential benefits are concerned, the same is totally without jurisdiction.

7. In the circumstances, the findings and conclusions that were recorded by the learned Labour Court concerning the regularization of the services to Smt.Lakshmi are totally unwarranted and they are liable to be set aside and accordingly they are set aside. Further, the conclusion that was arrived at by the learned Labour Court with regard to entitlement of Smt.Lakshmi for payment of one-third scale wages in terms of the said



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Circulars are concerned they are upheld and the petitioner Bank is directed to pay the entire amount, to which Smt.Lakshmi is entitled to, in terms of conclusion arrived at by the learned Labour Court as expeditiously as possible, at any rate, within a period of two months from the date of receipt of a copy of this order. Accordingly, this writ petition is disposed of. The miscellaneous applications, if any, shall stand closed. No costs.

13.12.2023

Index : Yes/No
Speaking Order : Yes/No
dpa

To:

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MUMMINENI SUDHEER KUMAR,J.

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