WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 27.09.2023**

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

**W.P.No.20503 of 2018**
**and**
**W.M.P.Nos.24098 of 2018 & 12483 of 2019**

The Management,
Lakshana Cotton Spinning Mills Ltd.,
(Now) Martin Spinning Mills Private Ltd.,
Maddampalayam, Bilichi,
Coimbatore – 641 019. ... Petitioner

Vs.

K.N.Rajendran ... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records connected with C.P.No.62 of 2012 on the file of the Principal Labour Court, Coimbatore and quash the order dated 18.04.2018.

For Petitioner : Mr.John Zachariah
for M/s.Fox Mandal & Associates

For Respondents : Mr.Balan Haridas

*****


https://www.mhc.tn.gov.in/judis

WEB COPY



**ORDER**

This Writ Petition has been filed by the petitioner seeking to quash the order dated 18.04.2018 in C.P.No.62 of 2012 on the file of the Principal Labour Court, Coimbatore.

2. The case of the petitioner is that, one M/s.Lakshana Cotton Spinning Mills Ltd was incorporated in the year 1982. They were engaged in the business of manufacturing of cotton yarn and natural fibers in a lease hold land owned by one M/s.Ramakrishna Engineering Industries Pvt. Ltd. The Lakshana Cotton Mills, who is lessee of the said M/s.Ramakrishna Engineering Industries Pvt. Ltd., faced several financial issues and hounded by labour unrest and problems, thereby, they were constrained to approach the Board for Industrial and Financial Reconstruction (BIFR) in C.P.No.299 of 2000 for a reference under Section 15(1) of the Sick Industrial Companies (Special Provision) Act, 1985. For various reasons, the Lakshana Cotton Mills dismissed the respondent/workman. After dismissal, the Lakshana Cotton Mills filed approval petition under Section 33 (2)B of the Industrial Disputes Act,


https://www.mhc.tn.gov.in/judis

WEB COPY



1947 (in short 'the ID Act') before the Special Industrial Tribunal, Chennai, which was ultimately dismissed for want of diligent prosecution by order dated 14.11.2011. Thereafter, the respondent/workman filed a computation petition before the Principal Labour Court, Coimbatore under Section 33 C(2) of the ID Act in C.P.No.62 of 2012 claiming a sum of Rs.5,42,068.92/- towards wages for the period from 01.04.2005 to 31.12.2011. Subsequently, the computation petition was allowed by way of the impugned award dated 18.04.2018 directing the petitioner to pay a sum of Rs.5,42,068.92/-. Challenging the same, the present writ petition is filed.

3. The learned counsel appearing for the petitioner submitted that, though the computation petition has been filed on the ground that, even after the dismissal of the approval petition, the respondent was not reinstated, however, the petitioner-Mill has nothing to do with the Lakshaman Cotton Mills. He further submitted that, after winding-up of the Lakshana Cotton Mills, the petitioner-Mill had purchased the entire properties from Ramakrishna Engineering Industries vide sale deed, dated 04.02.2009 registered as Document No.1121 of 2009, whereas, the


https://www.mhc.tn.gov.in/judis

WEB COPY



petitioner-Mill purchased most of the machineries from SJS Machineries Industum Pvt, Coimbatore and some machineries from Lakshaman Cotton Mills vide sale invoice dated 04.02.2009. While such being the position, the respondent/workman have no right to claim any benefits from the petitioner-Mill. However, the respondent/workman inadvertently impleaded the petitioner-Mill as one of the party in the computation petition and obtained award in his favour, which is not sustainable and the same is perverse. Accordingly, he prays for allowing the writ petition.

4. Per contra, the learned counsel appearing for the respondent/workman submitted that, the respondent joined service in the year 1982 and attained permanent status in the year 1985 and his last drawn wages was Rs.5,707.80/-. However, Lakshana Cotton Mills for untenable reasons suspended the respondent on 11.02.2005. Thereafter, without conducting proper enquiry, they dismissed the service of the respondent on 30.03.2005. After dismissal, the Lakshana Cotton Mills filed the approval petition under Section 33 (2)B of the ID Act and the


https://www.mhc.tn.gov.in/judis

WEB COPY



same was rejected. Subsequent to the dismissal of the approval petition, the respondent was not reinstated and wages was not paid to the respondent. For non-payment of wages between the period from 01.04.2005 to 31.12.2011, the respondent filed the computation petition under Section 33 C(2) of the ID Act. After adjudication, the Principal Labour Court passed an order directing the petitioner-Mill to pay a sum of Rs.5,42,068.92/- without interest, which cannot be interfered with and based on the pre-existing right, the respondent is legally entitled to wages from 01.04.2005 to 31.12.2011, however, the wages was not paid. In view of the above said pre-existing right of payment, the Labour Court passed an award in favour of the respondent, which cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel appearing for the parties and perused the materials available on record.

6. Admittedly, the petitioner-Martin Spinning Mills Ltd purchased the property from Ramakrishna Engineering Industries. However, subsequently, the very same petitioner purchased the machineries from


https://www.mhc.tn.gov.in/judis

WEB COPY



Lakshana Cotton Mills through sale invoice dated 04.02.2009, which was marked as Ex.W.4. However, prior to that, the respondent was dismissed from service on 30.03.2005. Thereafter, the Lakshana Cotton Mills, who is vendor of the petitioner-Mill, had filed approval petition under Section 33 (2)B of the ID Act and the same was dismissed on 14.11.2011. Even after the dismissal of the approval petition, the Lakshana Cotton Mills have not reinstated the respondent and not paid the wages, thereby, the respondent filed the computation petition impleading the petitioner-Mill as well as the Lakshana Cotton Mills as party in the computation petition. After adjudication, the Labour Court passed an award in favour of the respondent, which cannot be interfered with. The fact findings rendered by the Labour Court cannot be re-appreciated by this Court under Article 226 of Constitution of India and the writ petition is liable to be dismissed.

7. Further, the Lakshana Cotton Mills ought to have reinstated the respondent after the dismissal of the approval petition by the Labour Court, however, the same was not done by them. Hence, as witness liability the petitioner-Mill has to pay the entire award amount as


https://www.mhc.tn.gov.in/judis

WEB COPY



awarded by the Labour Court vide award dated 18.04.2018. Therefore, this Court directs the petitioner-Martin Spinning Mills Private Ltd. to pay the award amount of Rs.5,42,068.92/- without any interest to the respondent/workman, within a period of four (4) weeks from the date of receipt of a copy of this order.

8. With the above observation and direction, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed.

**27.09.2023**

Index : Yes / No
Speaking order / Nonspeaking order
Netrual Citation Case : Yes / No
sp

To

The Principal Labour Court, Coimbatore.


https://www.mhc.tn.gov.in/judis

WEB COPY



**M.DHANDAPANI, J.**

sp

**W.P.No.20503 of 2018**

**27.09.2023**


https://www.mhc.tn.gov.in/judis