



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

M/s.Nafeez Garments,
Represented by its Proprietor Mr.Siraj Abdul Huq,
S.P.No.31 & 32,
Guindy Industrial Estate,
Chennai - 32.

... Petitioner

Vs.

A.Selvarathinam

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the orders dated 31.03.2015 in Claim Petition No.180/2013 on the file of the Principal Labour Court, Chennai and quash the same.

For Petitioner : Mr.Micheal Amalraj
for M/s.T.S.Gopalan & Co
For Respondent : Mr.M.Devaraj

ORDER

Challenge in this writ petition is made to the orders passed by
the Presiding Officer, Principal Labour Court, Chennai in
C.P.No.180/2013.



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

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2.The respondent, A.Selvarathinam was working as a Sample Tailor under the petitioner Management. He was terminated from service on 23.08.1994. He raised an Industrial Dispute in I.D.No.74/1995 under Section 2(k) of the Industrial Disputes Act before the Principal Labour Court, Chennai. The Principal Labour Court, Chennai vide its orders dated 27.09.1999 allowed the said petition and the Management was directed to reinstate the respondent / workman into service with full backwages. Since the respondent was not reinstated into service as directed by the Labour Court, he filed a claim petition in C.P.No.710/2002 before the same Court and in the said petition, the amount payable by the writ petitioner was computed as Rs.3,48,125/-, as against which, the present writ petitioner Management filed W.P.No.14564/2010, and the respondent/workman filed W.P.No.16151/2010 before this Court.

3.The writ petition filed by the Management was dismissed and the authorities concerned were directed to recover the amount of Rs.3,48,125/- from the Management under the Revenue Recovery Act. Since the present writ petitioner paid a sum of Rs.3,48,125/-, the writ



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

petition was subsequently closed.

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4. Thereafter, the writ petitioner did not reinstate the respondent into service and also did not pay backwages as per the orders passed in I.D.No.74/1995 by the Principal Labour Court, Chennai. Therefore, the respondent filed another Computation Petition in C.P.No.180/2013 before the Presiding Officer, Labour Court, Chennai. The Labour Court after analysing the evidence on record had computed the amount payable by the petitioner Management as Rs.4,16,138/-, challenging which the present writ petition is filed by the Management.

5. Mr. Micheal Amalraj, learned counsel for the writ petitioner would contend that the respondent did not approach the writ petitioner to get an employment and instead he filed C.P.No.180/2013 after a lapse of 11 years. He therefore contended that the respondent is not entitled to get Rs.4,16,138/-.

6. Per contra, Mr. M. Devaraj, learned counsel for the respondent would contend that the writ petitioner was directed to reinstate the



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

respondent by the Labour Court, Chennai vide orders dated 27.09.1999 in I.d.No.74/1995 and since it was not complied with, C.P.No.710/2002 was filed by the respondent and the amount payable by the writ petitioner was computed as Rs.3,48,125/-. Since the respondent paid the said amount, the writ petitions filed by the petitioner as well as the respondent were closed. It is his further contention that the writ petitioner did not reinstate the respondent into service as per the orders passed by the Principal Labour Court, Chennai and thereafter in C.P.No.180/2013 the amount payable by the writ petitioner was quantified as Rs.4,16,138/- by the Principal Labour Court, Chennai. He therefore, prayed for dismissal of the writ petition.

7.A perusal of the records would go to show that the writ petitioner was directed to reinstate the respondent into service with full backwages in I.D.No.74/1995 which was filed by the respondent under Section 2(K) of the Industrial Disputes Act and the same was not complied with by the petitioner. Hence, C.P.No.710/2002 was filed by the respondent / workman. Though the amount was computed as Rs.3,48,125/- in C.P.No.710/2002, the writ petitioner did not pay the said



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

amount, which forced the respondent to file W.P.No.16151/2010 before this Court seeking a direction to the concerned authorities to recover the amount under the Revenue Recovery Act. The writ petition filed by the petitioner Management challenging the orders passed in C.P.No.710/2002 was also dismissed. However, the present writ petitioner paid a sum of Rs.3,48,125/- to the respondent / workman admitting their liability and therefore, both the writ petitions were closed. Even thereafter, the present writ petitioner did not offer any employment to the respondent.

8.The contention of the learned counsel for the petitioner is that the respondent did not approach them to get any employment and that he was only a sample tailor. His further contention is that the respondent has not proved that he was not gainfully employed elsewhere. According to the learned counsel for the petitioner, the payment of Rs.4,16,138/- would not arise as the respondent had attained superannuation.

9. It is pertinent to point out that the order passed in



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

I.D.No.74/1995 was not challenged by the writ petitioner and only the order passed in C.P.No.710/2002 was challenged by them. Therefore, the contention of the writ petitioner is that the respondent did not prove that he was not gainfully employed elsewhere cannot be considered at this point of time.

10. As regards the contention of the learned counsel for the writ petitioner that the respondent would have attained superannuation by now and therefore, he cannot claim any amount from the writ petitioner, it is seen from the orders passed by the Presiding Officer, Principal Labour Court, Chennai in C.P.No.118/2013 that the amount of Rs.4,16,138/- was claimed by the respondent only for the period from 24.09.2002 to 15.04.2013. In the circumstances, I do not see any reason to interfere with the orders passed by the Labour Court.

11. Accordingly, this Writ Petition is dismissed as devoid of



W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

merits. No costs. Consequently, the connected Writ Miscellaneous Petition
is closed.

27.11.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

R. HEMALATHA, J.

mtl



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W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

W.P.No.12100 of 2019
and W.M.P.No.12366 of 2019

27.11.2023