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W.P.No.44224 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.44224 of 2016

K.Ramamoorthy

... Petitioner

Vs.

1.The Labour Court,
Cuddalore.

2.The Management of Bayor Industries,
Semmankuppam, Poondiaankuppam Post,
Cuddalore SIPCOT, Cuddalore – 607 005. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent viz., Labour Court, Cuddalore relating to the award dated 22.08.2016 and made in I.D.No.143 of 2004, quash the same and directing the 2nd respondent management to reinstate the petitioner in service.

For Petitioner : Mr.N.Thiagarajan

For Respondents : Mr.D.Abdullah [R2]



W.P.No.44224 of 2016

WEB COPY

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorarified Mandamus, to call for the records of the first respondent viz., Labour Court, Cuddalore relating to the award dated 22.08.2016 and made in I.D.No.143 of 2004, quash the same and directing the second respondent management to reinstate the petitioner in service.

2. The case of the petitioner is that, he was appointed as Office Assistant in the year 1990 in the management of the second respondent. Thereafter, he was promoted as a Plant Assistant/Junior Technician in the second respondent/Management and on 27.12.2001, the order of retrenchment was passed by the second respondent/Management. Therefore, the petitioner raised an industrial dispute in I.D.No.143 of 2004 and on 22.08.2016, the Labour Court has passed an award dismissing the said dispute raised by the petitioner. Challenging the same, the present writ petition is filed.



W.P.No.44224 of 2016

WEB COPY

3. The learned counsel for the petitioner submitted that, the said dispute raised by the petitioner was dismissed only on the ground that there was a 18(1) settlement between the petitioner/workman and the second respondent/Management and based on the 18(1) settlement, the petitioner received the entire benefits from the second respondent. However, in the present case, the petitioner/workman disputed the signature in the 18(1) settlement produced by the second respondent/Management before the Labour Court. However, the Labour Court mechanically passed an award dismissing the dispute raised by the petitioner/workman is not sustainable. Accordingly, he prays for allowing the writ petition.

4. Per contra, the learned counsel appearing for the second respondent submitted that, already there was a 18(1) settlement in between the petitioner and the second respondent before the Labour Officer. Suppressing the same, the petitioner raised an Industrial Dispute, which was properly considered by the Labour Court. In fact, the Labour Court sent the signature of the petitioner in the 18(1) settlement for forensic opinion, since the same was denied by the petitioner. After



W.P.No.44224 of 2016

receipt of the forensic opinion from the Forensic Department, the said dispute was dismissed, which cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner as well as the second respondent and perused the materials available on record.

6. The short issue involved in the present case is whether prior to filing of the dispute under Section 2(A)(2) before the Labour Officer challenging the retrenchment, the workman had entered 18(1) settlement with the Management or not. In order to ascertain that 18(1) settlement was entered between the Management and the Workman, the Management has marked Ex.M20, which is the 18(1) settlement, before the Labour Court. The Labour Court has sent the signature of the workman in the 18(1) settlement to the Forensic Department, since the workman denied his signature. After obtaining the forensic opinion, the same was marked as Ex.C.1 and based on which, the said dispute was dismissed. This Court is of the view that, when there is a 18(1) settlement, filing an industrial dispute before the Labour Court by



W.P.No.44224 of 2016

WEB COPY

suppressing the 18(1) settlement, is *per se* unsustainable. Therefore, the Labour Court has rightly dismissed the dispute raised by the workman, which cannot be interfered with.

7. Accordingly, the writ petition stands dismissed. No Costs.

14.07.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Labour Court, Cuddalore.



WEB COPY



W.P.No.44224 of 2016

M.DHANDAPANI, J.

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W.P.No.44224 of 2016

14.07.2023