



WEB COPY



W.P.No.23346 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.23346 of 2014

M.Ramanathan

..Petitioner

Vs.

1.The Management,
Asian Paints,
Sipat, Cuddalore – 607 005.

2.The Presiding Officer,
Labour Court,
Cuddalore.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 2nd respondent in Ref.No.C.P.No.51 of 2012 dated 09.12.22013 and quash the same and consequently direct the 2nd respondent to entertain the claim application in C.P.No.51 of 2012 and dispose of it on merits and thereby allow this writ petition.

For Petitioner : Mr.R.Muralidharan

For Respondents : Mr.Meenakshisundaram for R1
R2-Court



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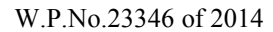
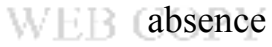
ORDER

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This writ petition is filed praying to quash the impugned order passed by the 2nd respondent-Presiding Officer, Labour Court, Cuddalore, in C.P.No.51 of 2012 dated 09.12.2013 and quash the same and consequently to direct the 2nd respondent to entertain the claim application in C.P.No.51 of 2012 and dispose of the same on merits.

2. It is averred in the writ petition that the petitioner was employed as a Lab Chemist in the 1st respondent-Asian Paints. On 01.04.2012, when the petitioner reported to the Time Officer to do night shift, the security refused to enter his attendance in the 'punch card'. On 18.04.2012, the petitioner brought the matter to the notice of the management and asked to give him attendance on 01.04.2012. The petitioner having found that his one day salary was deducted for the month of April 2012, sought for payment of Rs.534.74 to him stating that he was not permitted to work the night shift and entries were made as if he was absent.

3. While refuting the claim of the workman, the 1st respondent submitted that the training program was arranged on 01.04.2012 and 02.04.2012 and the proposed trainees were notified of the program by notice



6. The learned Judge, Labour court, found that while the workman had already accrued a right to claim the wages, he cannot make the application to compute the money value of the claim. The question is whether the respondent was right in asking the employees to do night shift and attend the



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training program on the day that followed.

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7. The learned Judge, applied the law laid down in the decision reported in **1995 SCC (1) 235 [Municipal Corporation of Delhi Vs Razak]** wherein, the Honourable Supreme Court, held that the labour court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33(2)(c) of Industrial Disputes Act.

8. The learned Judge, Labour court, thus given a finding that the workman ought to have approached the competent authority under Section 15 of Payment of Wages Act against the decision of Management to deduct one day salary. Sufficient provisions are found in the Act for the workman to get substantial remedy and questions can only be adjudicated upon by that authority; the court has no jurisdiction to decide the entitlement issue in this proceeding. Holding so, the learned Judge, dismissed the claim petition filed by the workman.

9. Challenging the said finding, the petitioner-workman has filed the present writ petition.



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10. The learned counsel appearing for the petitioner-workman would submit that the right of the worker to enforce his right under Section 33 (c)(2) of the Industrial Disputes Act is maintainable and valid in law and it is open to the worker to approach either under the provisions of Payment of Wages Act or under Section 33c(2) of the Industrial Disputes Act.

11. Per contra, the learned counsel appearing for the 1st respondent-Management, would submit that the petitioner has not worked on the said date viz., 01.04.2012. There was no communication or explanation from the petitioner for his absence on the said date. On the principle of “no work no pay” he was not paid wages, therefore, the only option to the workman is to raise a dispute under Section 2A of the Industrial Disputes Act, 1947.

12. Heard both sides and perused the records.

13. It is settled principle of law that the labour court has no jurisdiction to first decide the workmen's entitlement and then proceed to compute the benefit so adjudicated on that basis in exercise of its power under Section 33(c)(2) of the Act. The findings of the learned Judge, labour court,



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following the principles enunciated with respect to Labour court's power under

Section 33(c)(2) of the Act, is well founded. Finding no merits in the grounds

raised by the writ petitioner-workman, this writ petition is dismissed. No costs.

07.03.2023

dsa/nvsri

Index : Yes/No

Internet : Yes/No

Neutral citation : Yes/No

Speaking order/ Non-Speaking order

To

The Presiding Officer,
Labour Court,
Cuddaore.



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J.NISHA BANU, J.

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