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W.P.No.23828 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 07.03.2023

Delivered on : 19.04.2023

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.23828 of 2014

G.Murugan

..Petitioner

Vs

1.The Presiding Officer,
Principal Labour Court,
Vellore, Vellore District.

2.The Management,
V.R.Annamalai Mudaliar and Co.,
No.102, Mundy Street, Vellore.

..Respondents

Prayer: Writ petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorarified mandamus after calling for the records relating to the order dated 28.01.2014 of the 1st respondent passed in C.P.No.53 of 2013 quash the order of the 1st respondent restricting the claim for one year and declining to order for the remaining year and consequently direct the 2nd respondent to pay a sum of Rs.56,094/- as remaining amount claimed in C.P.No.53 of 2013 together with 12% interest and award costs.



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For Petitioner : Mr.S.T.Varadharajulu

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R2 - Mr.David George-No appearance.

ORDER

This writ petition is filed challenging the order passed by the learned Judge, Principal Labour Court, Vellore, whereby, the petitioner herein was granted Rs.5947/- from the management towards computation of wages u/s.33 C of the Industrial Disputes Act, 1947.

2. The petitioner has averred in the writ petition that he joined as Gumasta in the 2nd respondent-management on 03.09.1980 and worked for more than 32 years. He was denied employment from 09.07.2012.

3. The petitioner raised Industrial Dispute u/s.2A(2) of the ID Act. In the said I.D.No.7 of 2013, an Award was passed directing the management to pay compensation of Rs.31,200/-.

4. The petitioner claiming difference in wage and bonus, filed C.P.No.53 of 2013. The said computation petition was ordered directing



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the management to pay Rs.5947/- holding that the petitioner can claim difference in wage for one year preceding the date of filing of petition.

5. Challenging the said order, this writ petition is filed, taking the ground that the management has not paid the Minimum Wages and did not pay wage as per Act, therefore, this crucial aspect has not been taken note of by the Labour court. It is further contended that provisions of Section 33(c)(2) of the Act did not contemplate any time period to claim wages. The labour court cannot restrict the claim for one year.

6. Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner/workman. There is no appearance for the 2nd respondent/Management.

7. This court perused the award passed in I.D.No.7 of 2013 and also the order passed in Computation Petition No.53 of 2013. In the I.D., the workman sought for reinstatement into service with full back-wages and other attendant benefits. The Labour court, on 18.10.2013, given a finding that the workman has been alternatively and gainfully employed,



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he is not entitled to get the relief of reinstatement into service, with backwages and other attendant benefits. However, the labour court pointed out that since the service of the workman was terminated without prior notice, he is entitled for retrenchment compensation and directed the management to pay Rs.31,200/- as retrenchment compensation to the workman.

8. Thereafter, Computation Petition No.53 of 2013 has been filed by the petitioner/workman. The said petition was ordered on 28.01.2014, The petitioner-workman prayed to compute the value of the benefits u/s.33C(2) of the Act. The learned Judge, after framing the points for consideration, analysed that even though the petitioner has claimed difference in wages due to him from the year 2006 to 2012, as per Section 33-C(2) proviso, any claim that may be made under the section should be within the period of one year from the date of computation. Since the petitioner has not filed any application within a period of one year for the alleged wages due to him for the period relating to the year 2006 to 2012, therefore, the claim of worker regarding the wages due



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u/s.33 C can be computed on raising a presumption in favour of the workman. Even if he is deemed to be eligible to get the benefits of initial presumption in his favour, the petitioner is not entitled to claim any wages due for more than a year from the date of filing this petition. The petitioner first presented the petition on 04.02.2013; as per proviso to Section 33-C(2) of I.D.Act, which imposes a limitation, the petitioner is entitled to get the wages due only for the period of 12 months preceding to the date of filing of the said petition.

9. The learned Judge, categorically held that since the date of filing of computation petition is only 04.02.2013, the workman is entitled to get the alleged difference in the minimum wages only for the months of February 2012 to June 2012 and for 8 days in July, 2012, hence, the petitioner is entitled to get only a sum of Rs.5,947/-.

10. This court on going through the findings of the learned Judge, finds that the contentions raised by the petitioner-workman, cannot be entertained for computing the wages as claimed by him. The relief



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granted by the labour court with a direction to the management to pay a sum of Rs.5,947/- to the workman, is in accordance with the proviso to Section 33-C(2) of the I.D.Act. Therefore, warranting no interference to the order dated 28.01.2014, this writ petition is dismissed as devoid of merits. No costs.

19.04.2023

Index: Yes/No
Speaking/Non-speaking order
nvsri

To

1.The Presiding Officer,
Principal Labour Court,
Vellore, Vellore District.



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J.NISHA BANU, J.

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