



WEB COPY



W.P.No.20615 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

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

W.P.No.20615 of 2023

and

WMP.No.19998 of 2023

M/s. Jayant Packaging Private Limited,
Rep. by its Director, Mr.Muthaiyah,
Super, A12 & 13, Industrial Estate,
Guindy, Chennai – 600 032.

...Petitioner

Vs.

T.Peter

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records and quash the Award dated 11.10.2022 passed in O.P.No.109 of 2021 by the Presiding Officer, III Additional Labour Court, Chennai.

For Petitioner : Mr.A.Venkatesh Kumar
for M/s.Gupta and Ravi

For Respondent : Mr.S.Ravi

ORDER

This Writ petition has been filed seeking quashment of the Award dated 11.10.2022 made in O.P.No.109 of 2021.



W.P.No.20615 of 2023

WEB COURT

2. The case of the petitioner is that, the petitioner company is engaged in the business of corrugated packaging boxes and to distribute the same to the customers by employing around 30 employees and the respondent joined the service of the petitioner company as Accounts officer on 01.01.2005. While so, without any prior intimation, the respondent on his own stopped reporting for duty from 01.10.2020, and thereby, a letter dated 10.10.2020 was sent to the respondent, seeking explanation for his unauthorised absence, however, there was no response. While such being the case, the respondent raised a dispute before the Assistant Commissioner of Labour-III, Chennai and failure of which, resulted in filing of O.P.No.109 of 2021 before the III Additional Labour Court, and after contest, the Labour Court, passed the present award dated 11.10.2022, directing the petitioner to pay 75% back wages to the respondent from the date of termination till the date of superannuation. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, the respondent attained the age of superannuation as early as on 06.02.2022, hence, there is no question of reinstatement. Though the respondent has not particularly



W.P.No.20615 of 2023

averred anything with regard to not being gainfully employed during the non-employment period, the labour court, mechanically ordered for 75% back wages from the date of termination till the date of superannuation, which is wholly unsustainable. He further submitted that, the labour court came to a conclusion that the last drawn salary of the respondent is Rs.34,200/- and fixed 75% back wages based on the last drawn salary i.e.,Rs.34,200/-. However, it is pertinent to note that the respondent received three different salaries from three different firms and he received only a sum of Rs.16,700/- and odd from the petitioner company as monthly salary. While so, the labour court, added all the above said salaries received by the respondent and arrived at a conclusion that the last drawn salary of the respondent is Rs.34,200/-, which is erroneous. Hence, he prayed for appropriate orders.

4. Though very many grounds have been raised, the learned counsel appearing for the respondent fairly submitted that, the respondent/workmen received three different salaries from three different firm and he received only a sum of Rs.16,700/- and odd from the petitioner company.



W.P.No.20615 of 2023

5. Heard learned counsel on either side and perused the material documents placed on record.

6. Admittedly, the respondent was employed as Accounts officer in the petitioner company and for alleged misconduct, he was subsequently terminated from service by the petitioner company and on failure of the dispute raised by the respondent, the petition in O.P.No.109 of 2021 came to be filed before the III Additional Labour Court, in which the present impugned award dated 11.10.2022 came to be passed, directing the petitioner to pay 75% back wages to the respondent from the date of termination till the date of superannuation i.e.,06.02.2022.

7. Though very many arguments have been advanced by the learned counsel on either side at the time of arguments, the major issue involved in this Writ petition is whether the conclusion arrived at by the labour court that the last drawn salary of the respondent is Rs.34,200/- and fixing 75% back wages based on the last drawn salary i.e.,Rs.34,200/- is justified or not.

8. As the learned counsel for the respondent himself admitted that, the respondent/workmen received three different salaries from three different



W.P.No.20615 of 2023

management and he received only a sum of Rs.16,700/- and odd from the petitioner company, this Court is inclined to interfere with the impugned award dated 11.10.2022 passed by the Presiding Officer, III Additional Labour Court, Chennai in O.P.No.109 of 2021 only to the extent of last drawn salary of the respondent.

9. Accordingly, this Writ petition stands disposed of by modifying the award passed by the Labour Court with the following directions:-

(i) The petitioner management is directed to pay the respondent 75% back wages from the date of termination till the date of superannuation along with interest at 6% p.a. till the date of payment, by taking last drawn salary of the respondent as Rs.16,700/-, within a period of two weeks from the date of receipt of a copy of this order.

(ii) No costs. Consequently, the connected Miscellaneous petition stands closed.

17.08.2023

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

5/6



WEB COPY



W.P.No.20615 of 2023

M.DHANDAPANI., J.

skt

W.P.No.20615 of 2023
and
WMP.No.19998 of 2023

17.08.2023