



W.P.No.6858 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.6858 of 2017
and W.M.P.No.7435 of 2017

The Management,
Thingalur Powerloom,
Weavers Cooperative Production and Sales
Society Ltd., EH 130,
Thingalur, Perundurai Taluk,
Erode District.

... Petitioner

Vs.

1.M. Kumarasamy

2.The Presiding Officer,
Labour Court,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 14.09.2016 made in C.P.No.49 of 2014 passed by the Labour Court, Salem, quash the same.

For Petitioner : Mr.N. Manokaran

For Respondents : Mr.R.M.D. Nasrullah
for Mr.K.V. Shanmuganatham [R1]

R2 - Court



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ORDER

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When the first respondent herein, had raised an Industrial Dispute in I.D.No.1 of 2007 before the Labour Court, Salem, an award dated 03.01.2013 came to be passed, directing the petitioner/Management to reinstate the first respondent back in service, together with back wages. Accordingly, the first respondent was reinstated into service on 12.06.2013 and he had also retired from service on reaching the age of superannuation on 30.06.2014. When the petitioner was not extended the benefits that accrued to the first respondent under the award of the Labour Court in connection with the award of continuity of service, he had filed a Computation Petition before the Labour Court in C.P.No.506 of 2002 under Section 33(2) of the Industrial Disputes Act, 1947, seeking for computation of the monetary benefits. By an order passed on 21.03.2006, the dues payable to the petitioner was computed. In this background, the first respondent had filed second Computation Petition in C.P.No.49 of 2014 which was allowed on 14.09.2016, thereby directing the petitioner to pay a sum of Rs.1,01,896/-, together with 6% interest, if paid within three months and on default, the interest was arrived at 9%. Challenging the same, the present Writ Petition has been filed.



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2. The learned counsel for the petitioner submitted that there had occurred a loss to them, pursuant to which, the first respondent was also implicated as an accused in a criminal case which is pending. In view of such loss, the first respondent is not entitled for any monetary benefits. In the background of this, the Labour Court ought not to have computed the amount. Even otherwise, by taking into account the loss that had occurred to the petitioner/Management, the amount computed by the Labour Court need not be paid.

3. Per contra, the learned counsel for the first respondent submitted that the computation made by the second respondent herein, was pursuant to the award of the Labour Court that had granted reinstatement together with continuity of service and back wages. By applying the service benefits, he had made a claim before the Labour Court which was also rightly computed in the order dated 14.09.2016 and therefore, no interference is required to the same.

4. The scope of the Labour Court to deal with an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, is very limited when



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it comes to implementation of an award of the Labour Court. The factual aspects which were required to be raised before the Labour Court when the Industrial Dispute was pending, cannot be raised in a Computation Petition, unless the original award itself is challenged.

5. In the instant case, the Management had not challenged the original award of the Labour Court in I.D.No.1 of 2007 dated 03.01.2013, which had become final. In the award, apart from the reinstatement, the Labour Court had also awarded for back wages and continuity of service. The Computation Petition is in connection with the benefits to which, the first respondent is entitled, by applying the continuity of service to him. If that be so, the Management is now precluded from raising factual objections before the Labour Court in the Computation Petition when the findings of the Labour Court while passing the award in I.D.No.1 of 2007 was not made. As such, I do not find any infirmity in the impugned order passed by the Labour Court.

6. Accordingly, the Writ Petition stands dismissed. In view of the dismissal of the present Writ Petition, the petitioner shall forthwith disburse



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the amount computed by the Labour Court in the impugned order passed in C.P.No.49 of 2014 dated 14.09.2016 to the first respondent herein, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

08.02.2023

Speaking/Non-speaking Order
Neutral Citation: Yes/No
Index: Yes/No
Internet: Yes/No

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To

The Presiding Officer,
Labour Court,
Salem.



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M.S.RAMESH,J.

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