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W.P.No.15138 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.15138 of 2017

K.Rajasekar

... Petitioner

Vs.

1.The Presiding Officer,
Second Additional Labour Court,
Chennai – 600 104.

2.The Management Cooksen India Ltd.,
Dev Plot No.16 N.P.,
SIDCO Industrial Estate,
Ambattur,
Chennai – 600 098.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records and quash the order of the first respondent in I.D.No.644 of 2000 dated 06.11.2014.

For Petitioner : Mr.V.Kannan

For Respondents : Court [R1]
No appearance [R2]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records and quash the order of the first respondent in I.D.No.644 of 2000 dated 06.11.2014.



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2. The case of the petitioner is that, on 02.05.1979, he was appointed as Labour Assistant at Alandur by the second respondent management and subsequently, he was promoted as Foundary Worker on 02.05.1980. Thereafter, on 27.05.1996, the management made an intimation offering voluntary retirement scheme to the workers who had completed 40 years in age or who had 10 years of qualifying service. As the second respondent management was running profitably, there was no takers for the offer of voluntary retirement scheme in spite of the benefits offered and the last date was extended as 04.07.1997 for accepting the voluntary retirement scheme. Even then, there is no response, thereby, the second respondent management compelled the petitioner to submit an application under the voluntary retirement scheme on 17.06.1997. Thereafter, on the same day, they accepted the same and issued cheques. The petitioner received the cheque amounts under protest and thereafter, he lodged a complaint before the Law Enforcing Agency on 13.12.1997. However, the Law Enforcing Agency not taken any action against the second respondent management, thereby, he sent a letter to the second respondent management stating that, he has not accepted the voluntary retirement scheme. Thereafter, the petitioner raised a conciliation proceedings before the Labour Officer and the Labour Officer submitted a failure report,



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pursuant to which, he raised an Industrial Dispute before the first respondent/Labour Court and the first respondent/Labour Court dismissed the I.D. Challenging the same, the above writ petition is filed.

3. The learned counsel for the petitioner submitted that, in the year 1979, the petitioner entered the service of the second respondent management and after completion of 18 years of service, the second respondent management announced voluntary retirement scheme on 27.05.1996. Though the second respondent management claimed that, the petitioner made an application for voluntary retirement scheme on 05.06.1997, whereas the second respondent management by coercion obtained an application from the petitioner on 17.06.1997 and the same was accepted on the very same day and disbursed the cheque amount, which is not sustainable. The order dated 17.06.1997 is a compulsory retirement and the same was not properly considered by the Labour Court. The Labour Court mechanically arrived a conclusion that there is no coercion and the petitioner himself voluntarily submitted application under voluntary retirement scheme, which is not sustainable. In support of his contention, he relied upon the judgments passed by the Apex Court in the cases of *Assistant Commissioner, Commercial Tax Department, Works Contract & Leasing, Kota Vs. M/s.Shukla & Brothers* reported in **2010 AIR SCW 3277**



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and *Assistant Commercial Taxes Officer Vs. M/s.Kansai Nerolac Prints Ltd.*

reported in *2010 AIR SCW 3272*. Accordingly, he prays for allowing the writ petition.

4. Though the name of the second respondent management is printed in the cause list, however, no one appeared on behalf of the second respondent management. Considering the pendency of this writ petition, this Court is inclined to dispose of this writ petition based on the available records.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. Admittedly, the petitioner entered the service of the second respondent management in the year 1979 and he rendered 18 years service in the second respondent management. In the year 1997, the second respondent management announced voluntary retirement scheme on 27.05.1996, pursuant to which, the second respondent management claimed that the petitioner made an application on 05.06.1997 and the same was accepted and cheques were issued in favour of him on 23.06.1997 and 28.09.1997. However, the petitioner claimed that the application was obtained by coercion and on the same day, the order was



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passed. Before the Labour Court, the said issue was elaborately considered and

the application under voluntarily retirement scheme dated 05.06.1997 was marked as Ex.M.4 at the instances of the second respondent management. Further, petitioner also marked settlement receipt as Ex.W.6 and provident fund settlement receipt as Ex.W.7. It is also an admitted fact that the petitioner received cheques from the second respondent management on 23.06.1997 and 28.09.1997 with protest. However, he claimed to have made a complaint only after four months on 03.12.1997. If the petitioner had not agreed to the voluntarily retirement scheme, he could have returned the cheques without appropriating the amount. Further, the provident fund amount and the settlement amount was also appropriated in the month of August 1997. When such being the position, the order of the Labour Court cannot be interfered with. Hence, the prayer sought for by the petitioner cannot be granted and the writ petition is liable to be dismissed.

7. From a perusal of the judgments relied upon by the learned counsel for the petitioner, this Court found that the same is not applicable to the present case.



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M.DHANDAPANI, J.

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8. Accordingly, the Writ Petition is dismissed. However, if the petitioner/workman is eligible for any benefit or any arrears of payment, that may be as disbursed to him by the second respondent management, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

27.07.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Presiding Officer,
Second Additional Labour Court,
Chennai – 600 104.

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