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W.P.No.29296 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29296 of 2017
and W.M.P.No.31551 of 2017

Bharathiya Kovai Mavatta Podu Thozilalar Sangam,
231, Sathy Road,
Ganapathy,
Coimbatore-6.

.. Petitioner

Vs.

1.The Management,
M/s Sam Turbo Industry Ltd.,
Avinashi Road,
Nellambur,
Coimbatore-641 014.

2.The Presiding Officer,
Labour Court, Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other Writ or Order of direction in the nature of Writ, calling the records of the 2nd Respondent in its impugned order dated 13.12.2013 in I.D.No.489 of 2009 and quash the same.



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For petitioner : Mr.A.Deivasigamani
For Respondents : Mr.R.Jayaprakash for R1.

ORDER

Aggrieved by the impugned award of the 2nd respondent/Labour Court in I.D.No.489 of 2009, the petitioner union is before this Court.

2. The facts in brief are:-

(i) The Petitioner union is a major trade union functioning in the respondent management. In the year 1994, there was a wage settlement under Section 12(3) of the Industrial Disputes Act, 1947 as far as the Iron Foundry Unit is concerned based on which, revised wages were announced. Before, 01.03.1996, one of the reference mentioned workman namely, Sundara Ganesan was drawing a consolidated wages of Rs.1400/- per month. In view of the above settlement, from 01.03.1996, the management had fixed the regular wages with F.D.A of Rs.50/- and V.D.A of Rs.1308/- and a Basic Salary of Rs.21/- incurring loss to the workman to the tune of Rs.121/- per month. Therefore, a letter was sent to the management



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requesting to restore the original wages, however, there was no response from the management. Hence, the petitioner union raised a dispute on behalf of the workman before the Labour Court in I.D.No.489 of 2009 claiming restoration of earlier wages which was dismissed. Challenging the same, the present Writ Petition has been filed.

3. Learned counsel for the petitioner union would submit that 9 documents produced before the Labour Court on behalf of the workman which were marked as Ex.W1 to Ex.W9, however, no documents were placed on the management side in order to substantiate their claim that the workman is not entitled to receive a sum of Rs.1500/- per month from 01.03.1996. He further submitted that while revising the wages to one P.Santhanan who is the co-worker, he was given Rs.474/- in addition to the original wages and therefore, the workman is also entitled to get more wages. Hence, the impugned award of the Labour is liable to be interfered with. Accordingly, he prays for dismissal of his Writ Petition.

4. Learned counsel for the respondent management would submit that the revised salary was fixed only as per the settlement entered u/s 12(3)



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of the Industrial Disputes Act. At the time of implementing the new wage structure the earlier wages received by the worker will not be taken into consideration. Hence, the claim of the workman for more wages cannot be entertained. Accordingly, he prays for dismissal of this Writ Petition

5. This Court heard the learned counsel appearing on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, there was a 12(3) settlement in the year 1994, based on which, the wages were revised from 01.03.1996. However, it is the claim of the reference mentioned workman who was working in the 2nd respondent management namely Sundara Ganesan that he was drawing a consolidated wage of Rs.1400/- till before 01.03.1996 and that as per the revised wages, he is entitled to receive a wage to the tune of Rs.1500/- per month from 01.03.1996.

7. Even on bare perusal of the materials on record, it is seen that no materials have been placed by the workman to substantiate his claim that as



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per the 12(3) settlement he is entitled for the wages to the tune of Rs.1500/- per month. In the absence of any acceptable material, the claim made by the workman is wholly misconceived. The basis on which the said claim has been made by the workman has also not been spelt out. The said issue has been elaborately adjudicated by the Labour Court while arriving at a conclusion that the claim made by the workman is not sustainable, this Court does not find any perversity in the findings rendered by the Labour Court in rejecting the claim of the workman. Hence, the Award passed by the Labour Court is perfectly in order which cannot be interfered with.

8. For the reasons aforesaid, this Writ Petition is devoid on merits and the same is dismissed accordingly. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

11.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

NHS

To

The Presiding Officer,
Labour Court, Coimbatore.

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