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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM :

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

W.P.No.2964 of 2017
and
W.M.P.No.2851 of 2017

General Manager & Zonal Head,
Bank of Baroda, Zonal Office,
Baroda Pride, New No.41,
III Floor, Luz Church Road,
Mylapore, Chennai – 4.

(cause title amended vide dated 01.08.2023
made in W.M.P.No.21586 of 2023) ...Petitioner

Vs

1.The Central Government Industrial Tribunal-cum-Labour Court,
1st Floor, B Wing,
26, Haddows Road,
Sastri Bhavan,
Chennai-6.

2.Vijaya Bank Workers Organization,
rep.by its President, 60/2,
Big Street, Triplicane, Chennai – 5. ...Respondents

Prayer : Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the

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award passed by the first respondent, dated 13.3.2014 in Industrial Dispute No.02/2014 and communicated to the petitioner vide letter dated 17.06.2014 and quash the same.

For Petitioner : Mr.Gautam S.Raman
For Respondent-1 : Labour Court
For Respondent-2 : Mr.K.M.Ramesh, SC for
Mr.V.Sivaraman

ORDER

This Writ Petition is filed by the petitioner seeking to quash the order dated 13.03.2014 in I.D.No.2 of 2014 on the file of the first respondent.

2. The brief facts leading to filing of this case are stated as hereunder:

(i) There was a surplus manpower in all banks including the petitioner. Due to that, the erstwhile Board of Directors of the petitioner framed a scheme vide circular No.233/2004 dated 20.11.2004 for payment of ex-gratia amount in lieu of compassionate appointment subject to other terms and conditions for the legal heirs of the deceased employees.

(ii) Again, a revised scheme was framed for appointment on compassionate grounds and for payment of ex-gratia amount for the

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dependants of the deceased employees vide circular No.169/2007 dated 17.10.2007, by which, the legal heirs of the deceased employees are made eligible only (i) if the employee dies while performing official duty as a result of violence, terrorism, robbery and dacoity and (ii) if the employee dies within five years of his/her first appointment or before reaching the age of 30 years, whichever is later, leaving a dependant spouse and/or minor children.

(iii) The second respondent raised an industrial dispute challenging the scheme dated 20.11.2004 vide letter dated 31.12.2004 to the Regional Labour Commissioner (Central), Chennai. After contest, the conciliation ended in failure and the Authority concerned submitted a failure report dated 25.08.2005 before the Ministry of Labour and Employment, Government of India. Further, the Ministry of Labour and Employment, vide memorandum dated 05.01.2006, thought it fit not to consider the dispute for adjudication as the management had already drawn up a scheme.

(iv) Challenging the said decision of the Ministry of Labour and Employment, Government of India dated 05.01.2006, the second respondent filed W.P.No.11123 of 2006 before this Court and after contest, it was

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allowed by order dated 12.04.2013 directing the Ministry of Labour, Government of India to refer the matter to the first respondent herein.

(v) As per the directions of this Court, the second respondent filed their claim statement in I.D.No.2 of 2014 before the first respondent, in which, the petitioner filed their written statement. Further, the second respondent filed a rejoinder statement. After contest, the first respondent passed the impugned award rejecting the claim of the second respondent and further directing the petitioner to get fresh applications from the concerned dependants under the new scheme for payment of ex-gratia amount and pay lumpsum ex-gratia amount in terms of the scheme to the eligible beneficiaries calculating on the basis of the salary that the deceased employees would have drawn as on the date of consideration of the applications. Contending that the same goes contrary to the provisions contained in the scheme, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that, the respective deceased workmen, who are the members of the second respondent organization died between the years 2000 to 2003. At the relevant point of

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time, there was excess manpower available in the bank, thereby, they decided not to provide compassionate appointment and they withheld the appointment of compassionate appointment and subsequently, between the years 2004 to 2011, they decided to provide ex-gratia amount in lieu of the compassionate appointment based on the distress condition faced by the families of respective workmen. Subsequently, applications were rejected on the ground that, they have not suffered any economical crisis. However, without challenging the rejection order, the second respondent raised industrial dispute and award was passed by the Labour Court, which is not sustainable. The reference made by the Central Government before the Labour Court is whether the action of the management of Vijaya Bank in denying compassionate appointments to the dependent of the deceased employees is legal and justified. However, the Labour Court, contrary to the reference made by the Central Government, Ministry of Labour and Employment, passed order providing ex-gratia amount to the legal heirs of the deceased workmen, which is not sustainable. Accordingly, he prays for allowing the writ petition.

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4. The learned Senior Counsel appearing for the second respondent submitted that, the workmen of the different branches of the bank died between the years 2000 to 2003. At the relevant point of time, there is an existing scheme available for providing compassionate appointment to the legal heirs of the deceased workmen on satisfaction that the family members of the respective workmen suffered any distress condition. However, no order was passed pursuant to the applications made by the respective families, thereby, the second respondent filed an industrial dispute before the Labour Court and the Labour Court, by exercising its power available under Section 2(k) of the Industrial Disputes Act, 1947 (in short 'the Act') had passed an award for payment of ex-gratia amount, which is sustainable and the same cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned Senior Counsel appearing on behalf of the second respondent and perused the materials available on record.

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6. Admittedly, the employees of the erstwhile Vijaya Bank, namely, G.Thiagarajan, P.M.Joseph, A.Letchuman and S.Janardhanan died on 04.11.2000, 21.12.2001, 27.02.2003 and 20.08.2003 respectively. Immediately, after their death, the legal heirs of the deceased employees, made application before the respective management for compassionate appointment, however, no order was passed, thereby, the second respondent raised a dispute before the conciliation officer on 31.01.2004 challenging the Circular No.233/2004, dated 20.11.2004, in which, they provided only ex-gratia amount and not provided compassionate appointment, thereby, the Ministry of Labour vide its letter dated 05.01.2006 declined to refer the dispute for adjudication. Aggrieved by the same, the second respondent filed a writ petition in W.P.No.11123 of 2006 before this Court and this Court, by its order dated 12.04.2013 set aside the said letter and directed the Ministry of Labour to refer the matter to the first respondent herein. Accordingly, the Ministry of Labour referred the dispute before the first respondent and the first respondent passed award in favour of the families of the deceased employees for payment of ex-gratia amount in terms of the

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schemes available in the years 2004 and 2007 by exercising its power available under Section 2(k) of the Act.

7. As per Section 2(k) of the Act, "industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the condition of labour, of any person. In the present, by exercising the power available under Section 2(k) of the Act, the Labour Court passed award for payment of ex-gratia amount, which cannot be interfered with. Admittedly, the Central Government made a reference under Section 2(k) of the Act and in view of the same, if there is any dispute between the employer and employee, the Labour Court can pass award in order to resolve the dispute between them. In the present, the family members of the respective deceased employees made applications before the Vijaya Bank for providing compassionate appointment, however, no order was passed, thereby, the second respondent raised dispute, which was referred to the first respondent and the first respondent in order resolve the

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dispute between them, had passed an award for payment of ex-gratia amount in favour of the legal heirs of the deceased employees, which is perfectly in order and the same cannot be interfered with. Hence, the prayer sought for by the petitioner cannot be granted and this writ petition is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. However, the petitioner is directed to disburse the ex-gratia amount to the families of the deceased workmen as per the scheme vide circular No.233/2004 dated 20.11.2004 and circular No.169/2007 dated 17.10.2007, without any interest, within a period of four (4) weeks from the date of receipt of a copy of this order.

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(3/3)

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
sp

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M.DHANDAPANI,J.,

sp

To

The Central Government Industrial Tribunal-cum-Labour Court,
1st Floor, B Wing,
26, Haddows Road,
Sastri Bhavan,
Chennai-6.

W.P.No.2964 of 2017

01.08.2023

10/12

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W.M.P.No.21586 of 2023
in
W.P.No.2964 of 2017

M.DHANDAPANI,J.

This petition has been filed seeking to amend the cause title of the above writ petition W.P.No.2964 of 2017, the petitioner "Vijaya Bank, Represented by its Regional Manager – Chennai, Regional Office, No.123, Marshalls Road, Egmore, Chennai – 600 008 be amended to 'General Manager & Zonal Head, Bank of Baroda, Zonal office, Chennai, Bank Pride, New No.41, 3rd Floor, Luz Church Road, Mylapore, Chennai – 600 004, is ordered as prayed for.

01.08.2023

sp (1/3)

Note: Registry is directed to carryout the necessary amendments in the cause title.

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W.M.P.No.2850 of 2017
in
W.P.No.2964 of 2017

M.DHANDAPANI,J.

Dispensed with for the present.

01.08.2023

sp (2/3)

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