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W.A.No.169/2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 08-03-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A.No.169 of 2019

The Management of Simpson & Co.Ltd.,
Addisons Paints & Chemicals Division,
Formerly known as M/s.Addisons
Paints and Chemicals Ltd.

...

Appellant

-VS-

1.The Presiding Officer,
Second Additional Labour Court,
Chennai.

2.R.Rajamani

...

Respondents

Appeal is filed under under Clause 15 of the Letters Patent against the order, dated 28.08.2018, passed in W.P.No.15096 of 2013, on the file of this Court.

For Appellant : Mr.C.Mohan,
for M/s.King & Partridge.

For Respondent 2 : No appearance



JUDGMENT

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This appeal has been preferred against the order of the learned single Judge, dated 28.08.2018, passed in W.P.No.15096 of 2013.

2. Questioning his dismissal from service under the appellant management, the second respondent employee raised an industrial dispute in I.D.No.256 of 2002 before the first respondent - Labour Court, which passed an award, dated 08.11.2012, directing the appellant Management to pay a sum of Rs.5.00 lakhs, as compensation. That order was challenged in W.P.No.15096 of 2013 and the learned single Judge dismissed the Writ Petition, on the ground that the employer ought to have filed a review application before the Labour Court.

3. The contention of Mr.C.Mohan, learned counsel for the appellant, is that the management had not made any concession before the Labour Court to pay Rs.5.00 lakhs. The Management also filed an affidavit to the effect that Rs.5.00 lakhs was not offered by them and that they had not instructed the lawyer to give such a concession.

4. In our considered opinion, in the present case, the finding of the learned single Judge that review is possible and invoking the provisions of the Industrial Disputes Act are not correct. For the sake of convenience, Rule 55 of the Tamil Nadu Industrial Disputes Rules, 1958, is extracted below :



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"55. Correction of errors. -- A Board, Court, Labour Court, Tribunal or an Arbitrator may at any time correct any clerical mistake or error arising from an accidental slip or omission in any proceedings, report, award or decision either of its or his own motion or on the application of any of the parties. Any such correction in relation to any award if made after the award is published shall also be published in the same manner as the original award."

As per this Rule, the Labour Court can correct only a typographical mistake. Once an award is passed in terms of Sections 17 and 17A of the Industrial Disputes Act, 1947, on coming into force of the said award, the Tribunal becomes *functus officio*. Hence, review does not arise. That is the reason, why the Writ Petition was filed by the Management, challenging the award, stating that no concession with regard to Rs.5.00 lakhs was made before the Labour Court. In fact, at no point of time, the appellant Management offered Rs.5.00 lakhs either before this Court or before the Labour Court to be paid to the respondent employee.

5. Though the second respondent has been served more than once, he did not appear before this Court either in person or through a counsel.

6. Under the circumstances, we are of the view that the order of the learned single Judge, dated 28.08.2018, passed in W.P.No.15096 of 2013, and the award of the first respondent Labour Court, dated 08.11.2012, passed in I.D.No.256 of 2002 are liable to be set aside and they are, accordingly, set aside.

7. Writ Appeal is allowed. No costs. Consequently, the connected



C.M.P.No.1630 of 2019 is closed.

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(S.V.N.,J.)

(R.K.M.,J.)

08-03-2023

To

The Presiding Officer,
Second Additional Labour Court,
Chennai.



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S.VAIDYANATHAN,J.
AND
R.KALAIMATHI,J.

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