

07.08.2024
Sl No.21
Suman
Ct.No.551

WPA 30302 of 2017

Pradip Kumar Routh
Vs.
The State of West Bengal and Ors.

Mr. Tulshi Das Ray
Mr. Tirthankar Roy
..for the petitioner

Mr. Ranjan De
Mr. B. Banerjee
Mr. A. A. Bose
..for respondent no.2.

01. In this writ petition as filed under Article 226 of the Constitution of India the writ petitioner has prayed for issuance of an appropriate writ upon the respondents, more specifically upon the respondent nos. 1 and 3 for passing an appropriate order as against the respondent no.2 for violation of the award dated 27.10.2010 as passed in Case no.74 of 2004 by the Second Labour Court, West Bengal, Kolkata.

2. At the very outset, learned advocate appearing for the writ petitioner submits before this Court that at all material point of time, the writ petitioner was a permanent employee of the respondent no.2 Company and all on a sudden, he was not permitted to attend his duty on and from 31.01.2002. It is the case of the petitioner that despite several representations made by

“Hence, it is,
ORDERED

The O.P. Company is hereby directed to reinstate the applicant within a period of 60 (sixty) days from the passing of this Award, failing which the applicant shall be at liberty to take recourse of law for redressal.

Dictated & corrected by me.

3. In course of his submission, learned advocate appearing for the writ petitioner submits before this Court that challenging the said award, the respondent no.2 Company preferred a writ petition being W.P. 3623(W) of 2011 before this Hon'ble Court where an initial interim order was passed on

12.09.2013 by a Co-ordinate Bench of this Court directing the Company to pay Rs.2,262/- per month till further order. It is further submitted that in the said writ petition, since the possibility of settlement arose, the said writ petition was dismissed as not pressed by an order dated 27.07.2015.

4. It is further submitted that even after dismissal of the said writ petition challenging the aforementioned award, the respondent no.2 Company failed and neglected to comply with the said award dated 27.10.2010 and accordingly, the writ petitioner, therefore, approached the respondent no.1 authority for ventilating his grievance but for some reason or other, no favourable order was passed by the respondent no.1 authority and thus, the instant writ petition has been filed praying for issuance of appropriate writ upon the respondent no.1 authority to act in accordance with law for due implementation of the aforementioned award.
5. Per contra, the learned advocate for the respondent no.2 Company at the very outset submits before this Court that the writ petitioner has not come before this Court with clean hands and in the instant writ petition, the writ petitioner

has suppressed some material facts for which the instant writ petition is liable to be dismissed.

6. In course of his submission, learned advocate for the respondent no.2 Company took me to page 162 to 170 of the affidavit-in-opposition. It is submitted that during pendency of the said writ petition, a talk of settlement was held between the writ petitioner and the respondent no.2 Company which would be evident from those pages being the print outs of WhatsApp messages between the writ petitioner and the representative of the respondent no.2 Company.
7. Drawing attention to page 172 to 176 of the affidavit-in-opposition, it is submitted on behalf of the respondent no.2 that pursuant to the said talk of settlement during the pendency of the said writ petition both the writ petitioner and the respondent no.2 Company had entered into a settlement in writing under Section 2(P) of the Industrial Disputes Act, 1947 read with Rule 68(3) of the Industrial Disputes Rules, 1958. Drawing further attention to the terms and conditions of the settlement under Clause 5 of the said settlement, it is submitted on behalf of the respondent no.2 Company that from the terms and conditions of the said settlement, it would reveal that both the writ petitioner and the respondent no.2 Company had

entered into a settlement to the effect that the writ petitioner was ready and willing to accept a sum of Rs.7,80,000/- from the respondent no.2 Company in full and final settlement of his dues and on receipt of such amount, he would not claim any employer and employee relationship between him and the Company and further he would also not claim any reinstatement before any authority and pursuant to such settlement, he would not take any steps for enforcement of the aforementioned award.

8. It is further submitted that from the terms of the said settlement in writing, it would reveal further that such settlement was arrived at and signed by the parties without any undue influence or coercion or force or fraud or misrepresentation and the said settlement was signed by and between the parties out of their free will and consent. It is further argued that in accordance with the terms and conditions of the said settlement, the writ petitioner had received a sum of Rs.7,80,000/- by cheque and he has also granted money receipt.
9. It is submitted further that after execution of the said settlement on 10.03.2015, the respondent no.2 Company thus, prayed for dismissal of this aforementioned writ petition before a Co-ordinate Bench on 27th July, 2015 for dismissing the same as not pressed. It is further submitted on behalf of

the respondent no.2 Company that in the affidavit-in-reply of the writ petitioner, a sham ground was taken by the writ petitioner which is not tenable in the eye of law.

10. It is, thus, submitted that in view of the facts and circumstances, there cannot be any further claim of the writ petitioner and, thus, the instant writ petition may be dismissed.

11. This Court has meticulously gone through the materials as placed before this Court. This Court has given its due consideration over the deliberations of the learned advocate for the contending parties.

12. It is undisputed that an award has been passed in favour of the writ petitioner on 27.10.2010 by the Second Labour Court, which has been discussed and quoted (supra). Materials have been placed before this Court that challenging such award, the respondent no.2 Company approached before this Court by filing a writ petition being WP 3623 (W) of 2011. From the materials placed before this Court by way of an affidavit-in-opposition by the respondent no.2 Company, it appears to this Court that during pendency of the said writ petition, a settlement was arrived at by and between the writ petitioner and the respondent no.2 Company and in the said written Memorandum of Settlement dated

10.03.2015 the terms and conditions of settlement have been recorded.

13. On perusal of the said terms and conditions of the settlement, it appears to this Court that at the time of execution and signing of the terms of settlement, the writ petitioner accepted a sum of Rs.7,80,000/- from the respondent no.2 Company and in lieu thereof, he had given a goodbye to his claim with regard to relationship of the employer and the employee between him and the respondent no.2 Company and it was agreed by and between the parties in specific terms that such settlement was arrived at in compliance of the award of the Labour Court as mentioned (supra). This Court has also noticed that in terms of settlement, the writ petitioner has given an assurance to the respondent no.2 Company that on receipt of the said sum of Rs.7,80,000/-, he will not claim for his reinstatement, re-employment or fresh employment including back wages or any other claims in any manner whatsoever.

14. On perusal of the terms and conditions of the said settlement and on consideration of the entire materials as placed before this Court, it does not appear to this Court that the writ petitioner was compelled to sign on such written settlement. On the contrary, it appears to this Court that the writ

petitioner had entered into such settlement out of his own volition and thereby waived his entire claims upon receipt of a substantial amount from the respondent no.2 Company. It further appears to this Court that even after receipt of such money as mentioned (supra) and even after execution of the said terms of settlement, probably the lust of the writ petitioner is not exhausted which is why, he approached the respondent no.1 to ventilate his grievance which he cannot do in the eye of law.

15. In view of the discussion made hereinabove, this Court, thus, finds no merit at all in the instant writ petition.

16. Accordingly, the instant writ petition is dismissed.

17. Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Partha Sarathi Sen, J.)