



WP.No.12198 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.12198 of 2011

Shailesh Nair

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
III Additional Court,
Chennai.
2. Mamallapuram Hotels Ltd.,
Regd. Off: 138, Usman Road,
T.Nagar, Chennai-600 017.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, call for the records in respect of order dated 28th October, 2009 in C.P.No.111/2003 on the file of the First respondent and quash the same, consequently direct the second respondent to pay the claim amount prayed for.

For Petitioner : Ms.Padma Raghavan

For Respondents : R1-Court
Mr.S.Shivathanu Mohan
for M/s.S.Ramasubramaniam Associates
for R2

ORDER



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The instant writ petition has been filed against the dismissal order passed by the Labour Court on 28.10.2009 in CP.No.111 of 2003.

2. It is the case of the petitioner that under three headings, namely under the head of compensation for VRS, unavailed leave encashment and salary from 01.01.2001 to 15.03.2002, he is entitled to receive a sum of Rs.6,23,328/-

3. Per contra, the learned counsel for the Management would contend that the petitioner is not at all a workman. However, in view of the order of the Labour Court directing them to pay a sum of Rs.1,99,600/-, they have already complied with the order of the Labour Court and that the petitioner having not proved his claim, cannot challenge the well merited order. Hence, the order of the Labour Court does not require any interference.

4. I have given my anxious consideration to either side submissions.

5. It is well settled principle of law that under Section 226 of The Constitution of India, while exercising powers of judicial review, the High Court must exercise restrained and only when the finding of the Labour Court is perverse and without there being any evidence, judicial review can be



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exercised. In this regard, it is relevant to refer the following judgments:-

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- (i) ***B.C.Chaturvedi Vs. Union of India*** reported in (1995) 6 SCC 749,
- (ii) ***Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava*** reported in (2021) 2 SCC 612;
- (iii) ***The Indian Oil Corporation & Ors., Vs. Ajit Kumar Singh & Anr.,*** reported in 2023 LiveLaw (SC) 478.

6. As per the above ratio, the following principles are emerging:-

(i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and to ensure the compliance of natural justice.

(ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Disciplinary Authority and Appellate Authority is perverse and without evidence.

(iii) The High Court had no jurisdiction to review the penalty, unless it is shockingly disproportionate.

(iv) Since because there is a possibility to arrive at yet another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.



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7. With the above background, if we peruse the findings recorded by the Labour Court, the Labour Court has categorically found that the petitioner has not established his claim as to his entitlement under different heads. Even on perusal of the records, which is available before this Court, the petitioner is not in a position to demonstrate his claim so as to say the finding of the Labour Court is not supported by evidence. Hence, this Court is not inclined to interfere with the order of the Labour Court.

8. In the result, this writ petition is dismissed. No costs.

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kmi

Index : Yes /No

Speaking order : Yes/No

Neutral Citation : Yes/No

To

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C.KUMARAPPAN, J.

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