



W.P.No.3245 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

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THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.3245 of 2024
and W.M.P.No.3514 of 2024

N.Saravanan

... Petitioner

Vs

The Management of Sundaram Clayton Limited,
Rep. by its Managing Director,
SCL, MTH Road, Padi,
Chennai – 600 05.

... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records and to quash the order passed in I.A.No.1 of 2023 in O.P.(ID).No.60 of 2023 by the I Additional Labour Court at Chennai dated 18.12.2023.

For Petitioner : Mr.A.Thiruvilankumar

For Respondent : Mr.G.Anandgopalan

ORDER

This Writ petition is filed by the petitioner seeking to quash the order passed in I.A.No.1 of 2023 in O.P.(ID).No.60 of 2023 dated 18.12.2023 by the I Additional Labour Court at Chennai.



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2. The petitioner applied for VRS on 27.10.2020 and the same was accepted by the respondent and the petitioner was relieved from service. Thereafter, the petitioner was paid Rs.14,78,532/- towards Voluntary Retirement Scheme, Rs.1,48,877 towards Gratuity, Rs.13,290/- towards leave salary and Rs.80,000/- towards GSLI cheque, in total Rs.17,18,709/- was paid to the petitioner and he was relieved from service under the Voluntary Retirement Scheme. The petitioner accepted the said amounts and thereafter, raised a dispute questioning the termination. The dispute was referred to the Labour Court in O.P.No.60 of 2023. During the pendency of the dispute, the respondent management filed an application in I.A.No.1 of 2023 under Section 11 of the Industrial Disputes Act, 1947 (in short 'the I.D. Act') to direct the petitioner to deposit a sum of Rs.17,18,709/- before the Labour Court as a pre-condition to maintain the Industrial Dispute. The Labour Court, on the basis of the materials on records, allowed the petition and directed the petitioner to deposit a sum of Rs.15,58,531/- before the Labour Court within a month from the date of the order pending the industrial dispute. Aggrieved by the same, the petitioner filed the above writ petition.



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3. The learned counsel for the petitioner submitted that the petitioner was put to great hardship because of the illegal termination by the respondent. He further submitted that as the VRS obtained from the petitioner was on threat, directing the petitioner to reimburse a sum of Rs.17,18,709/- at this point of time would be onerous. The learned counsel, therefore prayed that the writ petition be allowed.

4. On the other hand, the learned counsel appearing for the respondent submitted that after the expiry of period of limitation, the petitioner raised a dispute and that too after encashing the amounts paid under the VRS scheme. In support of his contention, he relied upon the judgment of the Apex Court in ***Ramesh Chandra Sankla & Ors. Vs. Vikram Cement & Ors.*** reported in **2008 14 SCC 58**.

5. I have heard both the learned counsels and I have perused the materials on record.



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6. It is the submission of the learned counsel for the petitioner that the VRS was not voluntary but was under coercion. In my view, the same is a matter to be decided in the main I.D. As far as the present writ petition is concerned, the only issue is whether the petitioner should be directed to pay the amounts received by him under the VRS. In this regard, it is relevant to extract paragraph No.100 of the judgment of the Apex Court relied upon by the learned counsel for the petitioner, which is as follows :-

“100. Even otherwise, according to the workmen, they were compelled to accept the amount and they received such amount under coercion and duress. In our considered opinion, they cannot retain the benefit if they want to prosecute claim petitions instituted by them with the Labour Court. Hence, the order passed by the Division Bench of the High Court as to refund of the amount cannot be termed unjust, inequitable or improper. Hence, even if it is held that a “technical” contention raised by the workmen has some force, this Court which again exercises discretionary and equitable jurisdiction under Article 136 of the Constitution, will not interfere with a direction which is in consonance with the doctrine of equity. It has been rightly said that a person “who seeks equity must do equity”. Here the workmen claim benefits as workmen of the Company, but they do not want to part with the benefit they have received towards retirement and severance of relationship of master and servant. It simply cannot be permitted. In our judgment, therefore, the final direction issued by the Division Bench needs no interference, particularly when the Company has also appropriated this Court under Article 136 of the Constitution.”



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7. In the light of the above judgment, I am inclined to dismiss the writ petition. Accordingly, the writ petition is dismissed. It is seen that the Labour Court had given one month time to the petitioner to make the deposit and the deposit was not made within the time stipulated by the Labour Court. In the interest of justice, an opportunity is given to the petitioner to make the deposit within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

19.02.2024

Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The I Additional Labour Court at Chennai.



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N.MALA,J.,

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