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W.P.No.44372 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.44372 of 2006

S.Udhayakumar

... Petitioner

/vs/

1. The Presiding Officer,
Labour Court, Vellore.

2. The Management of TEEYEM. Leathers,
No.82, Srinivasanpettai Road,
Ranipet – 632 401.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the Award dated 23.03.2002 passed in I.D.No.199 of 2002, quash the same and consequently direct the second respondent to reinstate the petitioner service with continuity of service and with back wages and other attendant benefits, award costs.

For Petitioner ... Mr.S.T.Varadarajulu

For R2 ... Mr.Shanavas Khan

For R1 ... Labour Court



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ORDER

On 05.09.2024 this Court has passed the following order:

“ The writ petition has been filed by the workmen who lost the Industrial Dispute raised before the Labour Court, Vellore in ID.No.199 of 2002.

2. Mr.S.T.Varadarajulu, learned counsel for the petitioner, submitted that the petitioner has sustained injuries over his right arm during the course of his employment; the petitioner has mistakenly filed a suit for compensation, and the same was dismissed; subsequently, the petitioner has been terminated from employment and then he lost his employment and an injury without compensation.

3. The industrial dispute was also raised in the year 2000. Now the petitioner would have crossed the age of superannuation and hence there is no scope for reinstatement, even if the award of the labour Court is set aside. Without adverting the merits of the case and also considering the fact that the case is pending for several years and the petitioner has sustained an accident in which he got injured, I feel the respondent can consider settling the matter amicably by showing some benevolence.

4. Even though the earlier settlement is failed, the learned counsel for the petitioner has submitted that the process can be restarted as the petitioner has understood the practical difficulties and hence some realistic steps can be taken in this regard.

5. Considering the said submissions and also to enable the parties to report any settlement, this matter is ordered to be listed



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on 19.09.2024.”

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2. When the matter is taken up today, there is no representation for the second respondent. However, the second respondent has filed his written arguments.

3. Mr.S.T.Varadarajulu, the learned counsel for the petitioner, submitted that the Labour Court did not appreciate the proper import of Exs.W1 and W2 in order to convince himself that the petitioner was an permanent employee of the second respondent at the time when the accident had occurred.

4. Attention was attracted to Ex.W1 which is the ESI ID Card issued to the petitioner. In the said document the employer's code is shown as “51-10687” and employee's code is shown as “10311213”. In Ex.W2 the employee's code and name has been rightly shown as that of the second respondent's company. However, the Labour Court has proceeded to dismiss the claim of the petitioner on an understanding that the petitioner has not been working with the second respondent from 1985.



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WEB COPY 5. One convincing argument advanced by the learned counsel for the petitioner is that the petitioner has been working with the same management which has three establishments. But the petitioner continue to have the same ESI employee code for all these establishments. The above fact is fortified by the entries made in Ex.W1-ESI card and the accident report Ex.W2. The employee's code in Ex.W1 pertains to that of the petitioner and the same is ascribed in Ex.W2. As stated already Ex.W2 also has the employer's code of the second respondent. It could be true that the petitioner has been in service of the several establishments of the same management from the year 1985. Had this vital fact was appreciated by the Labour Court, the result of the Industrial Dispute could have been different.

6. In the written arguments of the second respondent, it is submitted that the petitioner has entered into a settlement through Ex.M3 even in the year 1990 itself. However, it is the contention of the learned counsel for the petitioner that Ex.M3 is a concocted document and the petitioner did not



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ascribe his signature for the same. Even though the second respondent Management has disowned the fact that the petitioner was in service for four years continuously, it is stated that the settlement has been entered into the Management and the petitioner in the year 1990.

7. It is learnt that the petitioner's right hand fingers got crushed due to the accident during the course of employment. It is seen that in the year 1990 the petitioner is said to have received a faulty sum of Rs.270.28/- as settlement for the injury sustained by him. Even though the petitioner may not be eligible to get reinstatement in view of his attaining the age of superannuation, I think the Labour Court could have considered for awarding any compensation. In view of Ex.M3, the Labour Court appears not to have considered the case for awarding any compensation. Even the examination done through bare eyes for comparing the admitted signature of the petitioner with that of the signature in Exs.M2 and M3, the signatures appears to be dissimilar. Unfortunately, the petitioner has not filed any appropriate proceedings before the appropriate forum for seeking compensation for the injury sustained by him. Considering these factors



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and also a paltry sum of Rs.290.38/- has been fixed for settlement, I feel the petitioner can be considered for awarding compensation instead of reinstatement.

8. In view of the above stated reasons and also considering the facts and circumstances and the cost of living at the relevant point of time during which the petitioner sustained accident, a sum of Rs.40,000/-(Rupees Forty Thousand only) is awarded as compensation to the petitioner payable by the second respondent, within a period of two weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed. No costs.

14.10.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
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To:
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1. The Presiding Officer,
Labour Court, Vellore.



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R.N.MANJULA ,J.

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