



WP.No.20682 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.20682 of 2015

The Management,
Sundaram Industries Ltd.,
21, Kitchipalayam Main Road,
Salem-636 001.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.
2. T.Shanmugasundaram

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified, to call for the records in CP.No.18 of 2014 on the file of the President Officer, Labour Court, Salem, the 1st respondent herein, to quash the order dated 26.02.2015 passed therein.

For Petitioner : Mr.M.R.Raghavan

For Respondents : R1-Court
Mr.S.Ayyathurai for R2



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ORDER

The instant writ petition has been filed by the Management against the order passed by the Labour Court in CP.No.18 of 2014 dated 26.02.2015.

2. The brief facts which give rise to the instant writ petition is that, the workman Mr.Shanmugasundaram has raised an Industrial Dispute in ID.No.251 of 1997. Wherein, the Labour Court, Salem has passed an order on 29.05.2002 directing the appellant herein to reinstate the respondent-workman without back wages. It appears that in pursuance of the said order, the Management preferred a writ petition. Though the writ petition was ultimately disposed of on 25.04.2011, it is the contention of the appellant that during the interregnum, there was a stay by this Court. Therefore, they are not liable to pay back wages from the date of the order of the Labour Court in Industrial Dispute till he actually reinstated on 15.04.2004.

3. Despite the name is printed in the cause list, there is no representation on behalf of the respondent-workman.

4. The short facts to be considered in the writ petition is that, whether the respondent-workman herein is entitled for wages from the date of order of



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the Labour Court in I.D.No.251 of 1997 dated 29.05.2002 till 15.04.2004 qua the date on which actually reinstated. The only contention put forth by the learned counsel for the appellant is that during the interregnum period, there was a stay by the High Court, therefore, they are not liable to pay the wages. This Court is not in a position to accept the contention raised by the learned counsel for the appellant for the simple reason that the interim order passed by the Court would get merged into the final order.

5. While perusing the final order in WP.No.2454 of 2004 which was filed against the ID.No.251 of 1997, this Court has given a categorical finding that the respondent-workman herein is entitled to approach the Labour Court to claim his entitlement. Therefore, when there is no denial of his right to seek a salary from the date of order of the Labour Court, the Management has no right to deny the wages taking advantage of the pendency of the litigation. The Labour Court has elaborately considered the aspects and has computed the entitlement of the petitioner for Rs.1,35,000/-. While exercising the powers under Article 226 of The Constitution of India, the power of this Court under judicial review is very restrictive. In this regard, it is useful 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***.

Through the above judgments, 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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6. While applying the above proposition to the facts in hand, the findings recorded by the Labour Court is well merited and is in consonance with settled legal principles. Therefore, this Court is not inclined to interfere with the order of the Labour Court.

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

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Index : Yes /No

Speaking order : Yes/No

Neutral Citation : Yes/No

To

The Presiding Officer,
Labour Court,
Salem.



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C.KUMARAPPAN, J.

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