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W.P.No.20589 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

THE HONOURABLE DR.JUSTICE D. NAGARJUN

W.P.No.20589 of 2014

D. Bulganin

... Petitioner

vs.

1. The Presiding Officer,
Additional Labour Court,
Vellore, Vellore District.

2. The Manager,
Nazer Company, 'B' Tannery,
Katcheri Road, Vaniambadi,
Vellore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 15.12.2011 of the 1st respondent passed in C.P. No.198 of 2007, quash the same and consequently direct the 2nd respondent to pay a sum of Rs.4,77,567.55 to the petitioner as claimed in C.P. No.198 of 2007.

For Petitioner : Mr. S.T. Varadarajulu.

For Respondents : Labour Court [for R1]



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Ms. Lakshmipriya for
M/s. Gupta & Ravi [for R2].

JUDGMENT

(Judgment of the Court was made by DR. D. NAGARJUN, J.)

This petition is filed challenging the order passed in C.P. No.198 of 2007 dated 15.12.2011 by the 1st respondent and consequently to direct the 2nd respondent to pay a sum of Rs.4,77,567.55 to the petitioner as claimed in C.P. No.198 of 2007.

2. The petitioner had worked for more than 23 years continuously in the 2nd respondent management. However, suddenly from 31.05.2003 onwards, without giving any notice, the 2nd respondent Manager had denied the employment to the petitioner. The petitioner has addressed a letter to the 2nd respondent to provide employment, there was no reply from the management. Hence the petitioner has raised an Industrial Dispute under Section 2A(2) of the Industrial Dispute Act, 1947. The Labour Court has taken up the same as I.D. No.203 of 2007 and an award came to be passed on 27.06.2011 declining to set aside the dismissal order and also declined to give reinstatement with continuity of service as helper.

3. The petitioner has filed a C.P. No.198 of 2007 claiming the difference in wages, which were already paid and which were supposed to



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be paid as per 12(3) settlement. The Labour Court has dismissed the petition, aggrieved by the same, the present Writ petition has been filed.

4. The learned counsel representing the 2nd respondent has submitted that the respondent has filed 99 documents before the Labour Court to demonstrate that the petitioner was paid all the wages and allowances, that are required to be paid as per 12(3) settlement and thereby, the Labour Court did not accept the contention of the petitioner and rightly dismissed the industrial dispute petition.

5. Heard. Perused carefully all the documents filed along with this Writ petition.

6. The petitioner has filed the copy of 12(3) settlement along with the claim petition. On perusal of the impugned award, it is clear that copy of the 12(3) settlement has not been marked before the Labour Court. The main issue required to be settled by the Labour Court was whether the benefits under 12(3) settlement are entitled to the petitioner and if so, whether they were already paid to the petitioner. The industrial dispute petition was dismissed by the Labour Court by holding that all the benefits under 12(3) settlement were paid to the petitioner.



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7. When 12(3) settlement copy itself is not marked before the Court, it is surprised to note as to how the Labour Court has come to the conclusion that all the benefits under 12(3) settlement were paid to the petitioner. Unless 12(3) settlement copy was marked and appreciated before Labour Court, it cannot be decided whether benefits under 12(3) Settlement were paid or not.

8. Therefore, this is a fit case to remand back to the Labour Court, so that the Labour Court will mark copy of 12(3) settlement and consider the plea of the petitioner as to whether all the benefits agreed under 12(3) settlement, were paid to the petitioner or not. Similarly respondents will get opportunity to demonstrate as to whether all the benefits under 12(3) settlement were paid to the petitioner.

9. In view of the above, this Writ petition is disposed of by setting aside the order in C.P. No.198 of 2007 dated 15.12.2011 and remanded C.P. No.198 of 2007 back to the 1st respondent, Additional Labour Court, Vellore with a direction to mark the 12(3) settlement and to consider whether the petitioner was paid all the benefits as per 12(3) settlement by



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giving opportunity to both the parties. Both the parties are also permitted to file the documents afresh if necessary.

10. The Labour Court is directed to complete the enquiry as directed as quickly as possible not later than 6 months from the date of receipt of copy of this order. There is no order as to costs.

30.01.2024

mjs

Internet : Yes

Index: Yes/No

Neutral Citation: Yes/No

To

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DR. D. NAGARJUN, J.,

(mjs)

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