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W.A.No.245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

W.A.No.245 of 2023

V.Natarajan

... Appellant/Petitioner

Vs.

1.The Management
Hindustan Photo Films Mfg. Co.Ltd.,
Udhagamandalam,
Indu Nagar,
The Nilgiris.

2.The Presiding Officer,
Labour Court,
Coimbatore.

3.C.A.Mahalingam Suresh Kumar,
Liquidator of Hindustan Photo Films
Manufacturing Co. Ltd.,
No.27/9, Nivedh Vikas,
Pankaja Mill Road,
Puliyankulam,
Coimbatore - 641 045.

(R3 is impleaded vide order of Court
dated 26.07.2023 made in CMP.No.16358
and 16360/2023 in
W.A.Nos.244 and 245 of 2023
(SVNJ and KRSJ)

...Respondents/Respondents



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Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act to set aside the order passed passed by the learned Judge in W.P.No.25169 of 2011 dated 01.08.2022.

For Appellant : Mr.Selvaraj
for Mr.D.Jayasingh
For Respondents : Mr.S.Raja for
Mr.A.G.Sathyanarayanan for R1
R2-Labour Court

J U D G M E N T

(Judgment of the Court was made by J.Nisha Banu.,J.)

This writ appeal has been preferred by the appellant/petitioner as against the order passed by this Court in W.P.No.25169 of 2011, wherein, the appellant herein had filed a Computation Petition No.1 of 2008 for a direction to the 1st respondent to pay the petitioner a sum of Rs.8,47,701/- being balance of arrears of wages with future interest at 8% p.a.

2. The case of the appellant is that the Labour Court in I.D.No.31 of 1992 dated 04.12.2002 had directed the 1st respondent-Management to reinstate the petitioner with 25% back wages. The respondent-Management as per the said award dated 04.12.2002 had paid a sum of Rs.1,95,053/- viz seeking 25% of the back wages. The



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petitioner had filed a petition to pay the balance amount of Rs.8,47,700/- as per the claim statement filed under Section 33 (C)(2) of the Industrial Dispute Act, 1947.

3. According to the 1st respondent/management, after calculating 25% of back wages, they paid the entire amount due to the petitioner, whereas, the petitioner was claiming certain amounts on the basis of imaginary entitlements. As per the award dated 04.12.2002, the Labour Court has not specifically granted any special allowances as claimed by the petitioner/appellant in the computation petition. The various claims made by the petitioner/appellant under various headings are all claims made by him as if he worked under the 1st respondent/management during the non-employment period without any interruption.

4. After considering the evidence on both sides, the Labour Court found that except one claim to pay the unpaid wages for a period of 17 days from 01.08.1985 to 17.08.1985, the 1st respondent/ management disputed all the other claims. The petitioner/workman is entitled to recover only a sum of Rs.748/- as unpaid wages for a period of 17 days and the petitioner is not entitled to any other amount from the 1st



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respondent/management. Therefore, the Labour Court directed the 1st respondent/ management to pay a sum of Rs.748/- with 9% interest. As against the said order, of the Labour Court filed a Writ Petition No.25169 of 2011.

5. The Writ Court after considering the fact that the first respondent Company was closed in the year 2009 and the liquidation proceedings are pending before the National Company Law Tribunal, had dismissed the petition by directing the petitioner/workman to approach the National Company Law Tribunal by way of filing appropriate petition and work out his remedy in the manner know to law. As against the said order, the present Writ Appeal has been filed by the petitioner/appellant.

6. Learned counsel appearing for the petitioner/appellant would contend that already the Labour Court passed an order in I.D.No.31 of 1992 dated 04.12.2001 to reinstate the petitioner with 25% of back wages. However, the 1st respondent/Management had not paid the said amount. They paid a sum of Rs.1,95,053/- only, whereas, the 1st respondent/management has to pay a sum of Rs.10,42,753/-. After deducting the amount of Rs.1,95,053/-, the first respondent is liable to



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Management would contend that already the first respondent company was closed in the year 2009 itself and the Claim Petition No.114 of 2009 is pending before the National Company Law Tribunal, Chennai. Once the liquidation proceedings are pending before the National Company Law Tribunal, Chennai, the remedy is available to the petitioner/appellant that he has to be impleaded in the said proceedings. Therefore, he can seek remedy before the National Company Law Tribunal, Chennai. Hence, the Writ Court after taking into consideration all these aspects had directed the petitioner/appellant to approach the National Company Law Tribunal, Chennai. Therefore, the writ appeal is liable to be dismissed.

9. Heard the learned counsel or the appellant and the learned counsel appearing for the first respondent and this Court had perused the materials available on record.

10. According to the learned counsel for the appellant/petitioner, the petitioner already filed I.D.No.31 of 2008 before the Labour Court, Coimbatore. The Labour Court ordered to reinstate the petitioner with back wages of 25%. The said back wages were not paid by the first respondent. Therefore, petitioner/workman filed a computation petition in CP No.1 of 2008. The said petition was



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dismissed by the Labour Court holding that already 25% back wages was paid. As against the same, the petitioner had filed a writ petition in W.P.No.25169 of 2011. In the meantime, the first respondent company was under liquidation process before the National Company Law Tribunal. Therefore, the Writ Court passed the order dated 01.08.2022 by directing the petitioner to implead him before the National Company Law Tribunal and workout his remedy in the manner know to law.

11. It is an admitted fact that the first respondent Company was under liquidation process and the same is pending before the National Company Law Tribunal, Chennai and the Liquidator also impleaded as 3rd respondent in this Writ Appeal. The learned counsel for the 1st respondent/management fairly conceded that the claim of the petitioner/appellant has to be decided only by the National Company Law Tribunal, Chennai. The Writ Court has also directed the petitioner to approach the National Company Law Tribunal. As rightly contented by the learned counsel for the 1st respondent/management that once the company is under liquidation process and the Liquidator is also appointed, the petitioner/appellant has to approach the National Company Law Tribunal as directed by the Writ Court. Therefore, the



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order passed by the Writ Court directing the appellant/petitioner to approach National Company Law Tribunal, Chennai to implead in the said proceedings is in order and there is no infirmity found in the order of the Writ Court. Even as per the merits of the case, the computation petition was filed in the year 2008 and the same was dismissed by the Labour Court by stating that already 25% of back wages was paid to the petitioner and except the claim in respect of unpaid wages for 17 days from 01.08.1985 to 07.08.1985 of other claims made by the petitioner are all disputed claims which are not granted by the Industrial Tribunal in the Award passed in I.D.No.31 of 1992 dated 04.12.2002. Therefore, in respect of disputed claims, this Court cannot go into the same without findings of the Labour Court on the same. Hence, this writ appeal is liable to be dismissed.

12. In the result, the Writ Appeal is dismissed. No costs.

(J.N.B,J.) (P.D.B., J.)

08.04.2024

Index : Yes / No

Internet : Yes/No

Speaking order : Non-speaking order

Neutral Citation : Yes/No

msv

To



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The Presiding Officer,
Labour Court,
Coimbatore.



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J. NISHA BANU, J.
and
P.DHANABAL, J.

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