

08.01.2025
Court No.13
Item No.12
pk

**FMA 835 of 2024
CAN 2 of 2024**

**M/s Milap Roadways Pvt. Limited and another
Vs.
The State of West Bengal and others**

Mr. Shibaji Kumar Das,
Mr. Samrat Choudhury,
Mr. Dipendu Sarkar

... for the appellants.

1. The instant appeal arises out of a judgement and order dated 10.04.2024 passed by a Single Bench in WPA 9307 of 2024.

2. The writ petition itself is directed against an order dated 24.02.2023 passed by the First Labour Court, Kolkata, West Bengal in Computation Case No. 29 of 2019 under Section 33C(2) of the Industrial Disputes Act, 1947.

3. By the computation, the Labour Court held that the respondent workman was entitled to salary aggregating from November, 2018 to February, 2019 totaling to sum of Rs.71,753.56/-. In addition thereto, bonus for the financial year 2016-2017, 2017-2018 and 2018-2019 aggregating to Rs.18,565.56/- was directed to be paid. The aforesaid sums were to be paid with 10 per cent interest.

4. It appears from the records that the appellant only filed a written statement before the Labour Court. In such written statement, there is no denial to tripartite agreement dated 29.11.2018, based on which the workman claimed computation of dues. Such tripartite agreement constituted the settlement within the meaning of the I. D. Act, 1947.

5. Despite filing the written statement, the appellant chose not to participate in the proceedings and hence the matter was taken to the ex parte Board by the Labour Court.

6. Before the Single Bench and this Court it is asserted by reference to a judgement of the Supreme Court in the case of **C. N. Ramappa Gowda Versus C. C. Chandregowda (dead) by Lrs. and another** reported in **(2012) 5 SCC 265 particularly paragraph 29** thereof that it is for the plaintiff to prove any document or settlement asserted by him.

7. This Court finds that the said judgement of the Supreme Court originated in a suit filed before the First Court in the district concerned in Karnataka.

8. In the instant case, this Court is hearing the appeal from a writ petition under Article 226 of the Constitution of India. A Writ Court does not sit in

appeal over a judgement or a decision of a Labour Court.

9. To address the argument of the learned counsel for the appellants, suffice it to say that once there is an assertion by the applicant in a proceeding before the Labour Court and there is no denial of the same by the opposite party, the matter does not require any formal proof.

10. Courts and Tribunal under the Industrial Disputes Act, 1947 are not bound by the strict principles of the Code of Civil Procedure.

11. There is no violation of the principles of natural justice. The impugned order of the Labour Court is neither perverse nor illegal.

12. This Court is therefore of the view that the impugned judgement does not call for any interference. The instant appeal fails and is hereby dismissed.

13. The workman shall be at liberty to obtain orders for release of money lying deposited with this Court, before the Labour Court. Upon receipt of any order from the Labour Court, the sums deposited with the Registrar General of this Court together with interest shall be made over to the Labour Court for disbursement to the workman.

14. In view of dismissal of the appeal itself, connected application being CAN 2 of 2024 is also dismissed.

15. There shall be no order as to costs.

16. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)