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W.P.No.2020 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No. 2020 of 2021

and

WMP.No2286 of 2021

Col's Calibre Educators Pvt.Ltd.,
Rep. By its Director
P.Jayaraj,
Singapore Plaza,
II Cross Cut Road, Coimbatore 641 012.

...Petitioner

Vs.

K Kaliyanasundaram

...Respondent

Prayer:

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records of the Principal Labour Court, Coimbatore, in I.A.No.2 of 2020 in C.P.No.50 of 2019 and quash its order dated 09.03.2020.

For Petitioner	:	Mr.Aadarsh
		for M/s. T.S.Gopalan & Co.
For R1	:	Mr. V.Sivaraman

ORDER

This writ petition has been filed challenging the order dated 09.03.2020 passed by the Principal Labour Court, Coimbatore, in I.A.No.2 of 2020 in C.P.No.50 of 2019.

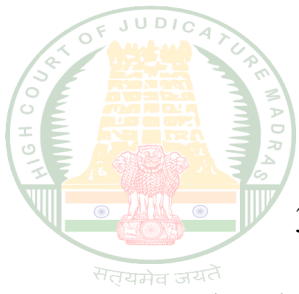


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2. The facts of the case are as follows.

The petitioner Management is an Educational Institution and the respondent was employed as a Teacher till July 2014. The Management settled all the dues to the respondent and he gave a receipt towards full and final quit. While so, in the year 2015, the respondent raised an industrial dispute challenging the order of termination before the Conciliation Officer and the dispute was dismissed *vide* order dated 09.03.20215, holding that the term "Teacher" does not answer the definition of "Workman" under Section 2(s) of the Industrial Disputes Act. While so, in the year 2019, the respondent filed a petition under Section 33(C)(2) of the ID Act, claiming wages to a tune of Rs.1,22,459/-. Thereafter, the petitioner Management filed an Interlocutory Application and the Computation Petition was taken up before the Principal Labour Court in I.A.No.2 of 2020 in C.P.No.50 of 2019 on the issue of maintainability of the computation petition and the Labour Court, *vide* order dated 09.03.2020 dismissed the said application. Aggrieved by the same, the present writ petition is filed.



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3. The learned counsel for the petitioner Management submits that the respondent had executed a full and final settlement receipt as early as the year 2014. Despite the same the respondent filed a Conciliation Proceedings and the same was rightly dismissed by the Conciliation Officer. In spite of the same, the respondent filed a petition under Section 33(C)(2) without any pre existing right and the Labour Court, failed to consider the fact that the respondent was a “Teacher” and would not come within the definition of “Workman” defined under Section 2(s) of the ID Act and cannot claim any remedy under the said Act. It is further submitted that on the question of maintainability the petitioner Management filed the present IA for raising Preliminary Issue regarding the status of the respondent and whether a petition under Section 33(C)(2) is maintainable. However, the Labour Court without considering any of the above said facts had dismissed the said IA filed by the petitioner Management solely on the ground that the said issue can be tried along with the main issue which is grossly erroneous.

4. Per contra, the learned counsel for the respondent submitted that admittedly the respondent was working as a Teacher in the petitioner Management and was terminated from service on 21.07.2014. The

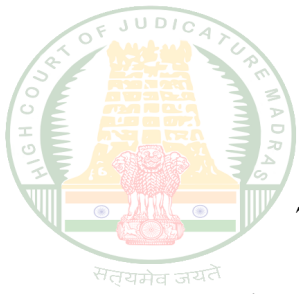


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respondent was not issued any prior notice of his termination. Further, no enquiry was conducted by the management and no proper opportunity was given to defend the charges. Learned counsel further submitted that the workman/respondent filed Computation Petition under Section 33(C)(2) before the Labour Court, Coimbatore claiming wages and other benefits, in which the petitioner Management filed an application regarding the maintainability of the petition and the Labour Court, had rightly dismissed the same on the ground that the same can be tried along with the main CP, which does not warrant any interference.

5. Heard both sides and perused the materials available on record.

6. Section 33C(2) of the Industrial Disputes Act, 1947, allows a workman to seek the computation of benefits due to them based on pre existing right, arising from an award, settlement or predetermined benefits. The Labour Court's jurisdiction is limited only to determining the amount due on the basis of the pre-existing.



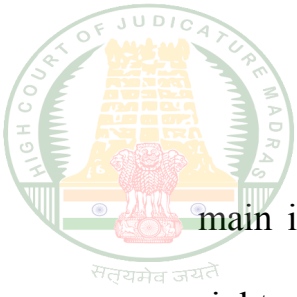
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7. Section 33C(2) provides a mechanism for the workman to seek recovery of benefits on a monetary basis that are due to him, which provision is essentially a form of execution proceedings against the employer.

8. The Labour Court's role under this section is limited to the extent of determining if any benefit computable in terms of money or benefit due to the workman and the duty of the Labour Court does not traverse to find out and decide whether the workman is entitled to it in the first place. The above is the ratio laid down by the Courts in a catena of decisions and the Labour Court is bound to follow the said ratio as a matter of judicial discipline.

9. This Court gave its anxious consideration to the submissions advanced on behalf of the parties and also perused the materials available on record.

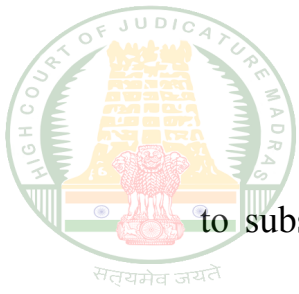
10. The main aim of the Section 33(C)(2) is only for creating a mechanism for providing the benefits with regard to the pre-existing rights to an employee, which are computable in terms of money. Therefore, the



main ingredient that forms part of Section 33(2) is the pre-existing right of an employee to receive a benefit requires to be established.

Therefore, it becomes incumbent on the part of the employee to establish through materials his pre-existing right to a certain benefit, which alone would clothe the Labour Court with power to grant the benefit and there is no iota of adjudication which is required to be made by the Labour Court. However, ignoring the elemental question with regard to the power of the Labour Court with regard to adjudication of a claim under Section 33(2), the Labour Court had dismissed the interlocutory application holding that the issue could be decided at the time of trial.

11. In the present case, the respondent has not placed any material to establish his pre-existing to claim benefits. However, as early as in the year 2014, the respondent had received the benefits and had given his receipt towards full quit of all the amounts due to him. Thereafter, the respondent raised an industrial dispute in the year 2015, which was rejected and upon rejection, in the year 2019, the petition under Section 33(2) has been filed. When the respondent had filed the petition claiming certain benefits, which are computable in terms of monetary benefits, a duty is cast upon the respondent to submit materials



to substantiate as to how the said benefits are due and payable to him.

However, as aforesaid, no iota of materials has been placed before the Labour Court. The Labour Court, unfortunately, without appreciating the purport of Section 33(C)(2) had dismissed the interlocutory application, which has been filed questioning the maintainability of the said petition and had erroneously tagged the issue for consideration along with the main dispute, which is *per se* unsustainable.

12. Further, the Conciliation Officer had deliberated on the issue whether the respondent, a 'Teacher' would fall within the ambit of "Workman" as defined under Section 2(S) of the Act and held that the respondent cannot be termed as a Workman. However, without appreciating the said issue as also the ambit of Section 33(C)(2), the Labour Court had wrongly dismissed the interlocutory application.

13. For the reasons aforesaid the award passed by the Labour Court dated 09.03.2020 in I.A.No.2 of 2020 in C.P.No.50 of 2019, does not merit acceptance and the same deserves to be set aside.



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M.DHANDAPANI, J.

vca

14. In the result, this Writ Petition is allowed and the impugned order in I.A.No.2 of 2020 in C.P.No.50 of 2019 is quashed. Consequently, upon the aforesaid order, C.P.No.50 of 2019 is not maintainable and accordingly, the same is dismissed. No costs. Consequently, the connected Miscellaneous petitions, if any are closed.

23.04.2025

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NCC : Yes/No
Index : Yes/No
Speaking Order : Yes/No

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