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W.P.No.7023 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.7023 of 2021
and W.M.P.No.7561 of 2021

The Management,
M/s.JBKM Precision Controller,
Plot No.A-17, SSIA, Vanagaram Road,
Athipet, Chennai - 600 072. .. Petitioner

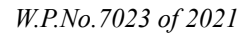
Versus

P.Parthasarathy .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari to call for the records relating to the order, dated 09.12.2020 in C.P.No.159 of 2017 on the file of II Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.A.Swaminathan

For Respondent : Mr.G.Mutharasu



This Writ Petition is filed challenging the order of the II Additional Labour Court, Chennai, dated 09.12.2020 made in C.P.No.159 of 2017. By said order, the claim of the workman claiming overtime wages totally amounting to a sum of Rs.1,03,312/-, was allowed by the Labour Court. The following amounts were claimed by the workman:-

Srl. No	Year	Overtime Wages Due (Rs.)
1.	2017	4,085/-
2.	2016	16,837/-
3.	2015	10,831/-
4.	2014	12,778/-
5.	2013	12,662/-
6.	2012	6,832/-
7.	2011	2,395/-
8.	2010	6,070/-
9.	2009	3,823/-
10.	2008	2,841/-
11.	2007	8,174/-
12.	2006	7,443/-
13.	2005	6,536/-



14.	2004	1,365/-
15.	2003	680/-
Total		Rs.1,03,312/-

2. The case of the workman is that there is a tabulation given by him with reference to the balance due in respect of overtime wages. The same is borne out on records by the salary slip also. Therefore, when no dispute whatsoever can be made by the management, the amount has to be computed and ordered to be paid by the management.

3. The management resisted the claim on three grounds. Firstly, it disputed the claim of the workman by contending that when the workman last received the sum of Rs.78,800/- on 03.07.2017 after attaining the age of superannuation, the sum was settled by way of full and final settlement and the workman cannot go on re-opening the issue after settling the matter with the management.



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4. It is the second contention of the management that when the entitlement is disputed, the same cannot be straightaway gone into by way of a petition under Section 33C(2) of the Industrial Disputes Act, 1947. The third contention of the management is that the wage arrears, from the year 2003, cannot now be claimed belatedly.

5. *Mr.A.Swaminathan*, learned Counsel for the petitioner management reiterated the said submissions.

6. *Mr.G.Mutharasu*, learned Counsel for the respondent workman submit that the matter relates to the claim of overtime wages. The wages so long were remained unpaid. Everyday, it will give rise to fresh cause of action and delay and latches cannot non-suit the workman. He would submit that the interest is also not ordered. Therefore, the costs portion of the order need not be interfered by this Court. He would further submit that the full



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and final settlement, which was referred to by the management, is with reference to the gratuity amount and not with reference to all and any other sum that may be due from the management to the workman.

7. I have considered the rival submissions made on either side and perused the material records of the case.

8. Firstly, this is a claim with reference to the overtime wages. From the records produced on behalf of the workman by way of computation as well as the wage slip, it cannot be said that these are disputed facts and since it can be quantified very easily taking into consideration the wage slip itself, that contention of the management, that this question cannot be gone into in a petition filed under Section 33C(2), is rejected. The second contention of the management that since the full and final settlement is already made, the claim cannot be made, is also rejected. When the management pays the last of the calculation as calculated by it, it is paid as full and final settlement.



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However, if any amount is lawfully due to the workman, then, merely because the workman accepted the final payment, the same will not come in the way of the workman claiming the same.

9. As far as the delay in approaching the Court is concerned, it is true that the workman is claiming from the year 2003 onwards. At the same time, even as per the contention of the learned Counsel for the management, at least, three years from the date prior to the claim i.e., from the year 2014 onwards, the workman can claim. Even if such a case is taken, a sum, more than Rs.40,000/- becomes due and if simple interest, at the rate of 9% per annum, is ordered from the date of Claim Petition, then, it will come more or less equivalent to the total amount awarded to the workman.

10. In that view of the matter, the said grievance of the management stood addressed by the Labour Court inasmuch as interest was not ordered.

However, as far as the costs portion is concerned, when the very entitlement



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itself is a sum of Rs.1,03,312/- awarding of costs of Rs.50,000/-, is on the higher side and considering the overall facts and circumstances of the case, I am of the view that the costs can be made easy. The prayer of the learned Counsel for the management with reference to expunging some of the words that are used by the Labour Court is also acceded to and the other observations made against the management shall stand expunged.

11. In view thereof, this Writ Petition is partly allowed on the following terms:-

(i) The order of the Labour Court, dated 09.12.2020 in C.P.No.159 of 2017 is confirmed inasmuch as it directs the management to pay a total sum of Rs.1,03,312/- towards the overtime wage arrears;

(ii) The said order shall stand set aside inasmuch as it orders costs of Rs.50,000/- to be paid by the management to the workman;

(iii) The sum, as ordered by the Labour Court, shall be paid to the workman within a period of 8 weeks from the date of receipt/production of a



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web-copy of this order without waiting for a certified copy of this order;

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(iv) If the amount is not paid within the aforesaid time, then, the same shall carry interest at the rate of 9% per annum from today;

(v) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.01.2025

Neutral Citation : no
grs

To

The II Additional Labour Court,
Chennai.



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D.BHARATHA CHAKRAVARTHY, J.

grs

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