

(2014) 02 KAR CK 0366

In the Karnataka High Court

Case No : Writ Petition No. 86403/2012 (L-KSRTC)

N.W.K.R.T.C.

APPELLANT

Vs

Chandrashekar

RESPONDENT

Date of Decision : 04-02-2014

Acts Referred:

Industrial Disputes Act, 1947 — Section 33(c)(2)

Citation : (2014) 02 KAR CK 0366

Hon'ble Judges : Mohan M. Shantana Goudar, J

Bench : Single Bench

Advocate : Veeresh B. Patil, Advocate for the Appellant; Sanjay M. Joshi, Advocate for the Respondent

Final Decision : Allowed

Judgement

Mohan M. Shantana Goudar, J.—The award of the Labour Court in Application No. 50/2011 passed u/s 33(c)(2) of Industrial Disputes Act, 1947, is called in question by the Management on the ground that arrived at by the Labour Court is not just and proper.

2. On certain proved charges, the respondent was held to be guilty and was terminated from services by the Disciplinary Authority. Consequently the respondent approached the Labour Court, Bijapur in K.I.D. No. 4/2009 questioning the order of termination. The Labour Court set aside the order of termination and directed to Management to reinstate the respondent into service with continuity of service and consequential benefits but without backwages. Thereafter grievance is made by the workman to the effect that the appropriate monetary benefits are not granted pursuant to the award made in KID No. 4/2009, by filing an application u/s 33(c)(2) of Industrial Dispute Act. He claimed a sum of Rs. 3,54,878/- based on the basic salary of Rs. 10,460/-. The Management did not file memo of calculation before the Labour Court. However, the Labour Court having calculated the arrears on its own and concluded that the workman is entitled to Rs. 2,74,040/-.

3. Sri Veeresh Patil, learned Advocate for the petitioner-Corporation submits that the basic pay of the workman as on 01.05.2010 was Rs. 8,920/- and not Rs. 10,460/- as taken by the Labour Court. If basic is taken as Rs. 8,920/- then, the workman may be entitled to Rs. 2,11,094/-. Thus, according to him the Labour Court was not justified in awarding about Rs. 60,000/-higher monetary benefits to respondent.

4. Sri Sanjay Joshi, learned Advocate appearing on behalf of workman, per contra contends that the entire dispute is in favour of workman and no useful purpose will serve in remitting the matter. He further submits that the Management is not justifying in approaching this Court without submitting its memo of calculation before the Labour Court.

5. The Corporation though was served did not adduce any evidence before the Labour Court. On the other hand, the workman adduced evidence on his behalf and submitted the records. The Management did not even submit its memo of calculation, consequently the Labour Court based on available material concluded that the basic salary of the workman was Rs. 10,460/-and on the said basis the arrears is calculated.

6. Since public money is involved, the Court proposed to remit the matter to the Labour Court particularly when Management has specifically pleaded that the basic of workman as on 01.05.2010 was Rs. 8,920/- and not Rs. 10,460/-. The Management ought to have been adduced evidence on its behalf. Therefore, cost has been imposed on the Corporation in not representing properly before the Labour Court. Though it succeeds in this writ petition, it has to pay costs to workman since it is Corporation which is negligent in the matter. Because of non effective participation of the Corporation before the Labour Court, the matter needs to be remitted. Accordingly the following order is made:

ORDER

The impugned order passed in Application No. 50/2011 stands quashed.

However the Labour Court is directed to reconsider the matter on merits. It is open for both parties to lead additional evidence if they so desire and the entire exercise shall be completed within four months from the date of petition. The then Officer of Corporation who was incharge of the file (at the time of disposal of the matter before the Labour Court) should be saddled with payment of cost. The Corporation at first instance shall pay Rs. 10,000/- to the respondent. The said Rs. 10,000/- should be recovered by the Corporation from the salary of concerned Officer.