

(2012) 08 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 15613 of 2006 (L-TER)

R Gangabyraiah

APPELLANT

Vs

The General Manager M/s Spinning and Manufacturing Mills
Minerva Mills, Magadi Road Bangalore 560023

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

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

Citation : (2013) 2 AKR 678 : (2013) 136 FLR 286 : (2013) 2 LLJ 35 : (2013) LLR 292 : (2012) LLR 1241

Hon'ble Judges : Subhash Badi, J

Bench : Single Bench

Advocate : B.V. Putte Gowda, for the Appellant; Ramachandran, For Sri. M.R.C. Ravi, for the Respondent

Final Decision : Dismissed

Judgement

Subhash Badi

1. In this writ petition, the petitioner has called in question the order dated 14th September 2006 in Application No. 9/2006 on the file of Principal Labour Court, Bangalore. Petitioner had filed an application u/s 33C clause (2) of the Industrial Disputes Act (for brevity "the Act") inter alia claiming that, he had worked for the respondent - establishment from 24.12.1988 to 8.3.2005. He retired by taking voluntary retirement. However, the petitioner was dismissed from service on 23.12.1987 and by virtue of the award passed by the Labour Court in I.D. No. 195/1988, he was reinstated into service with 25% of backwages, however, the said order was called in question before this Court in W.P. No. 8588/2001. This Court by order dated 18th June 2001, though confirmed the order of reinstatement, but denied the backwages on the ground that, the petitioner was gainfully employed.

2. The Labour Court has rejected the claim petition u/s 33C clause (2) of the Act on the ground that, the award passed by the Labour Court reinstating the

petitioner has not directed for grant of consequential benefits, as such, petitioner is not entitled for consequential benefits. It is against the said order, petitioner is before this Court.

3. Learned Counsel for the petitioner submits that, if there is an award for reinstatement, it presupposes the continuity of service as well as for consequential benefits. He also submitted that, the fact that 25% back-wages is granted which, though denied on account of gainful employment of the petitioner, the petitioner became entitled for all consequential benefits. This aspect of the matter has not been considered by this Court. To support his contention, he relied on the order passed by this Court in W.P. No. 5642/2010 dated 9th December 2010 and the decision of the Apex Court in 2001 LAB.LC 2372 in the matter of Sain Steel Products -vs- Naipal Singh and others and Gurpreet Singh Vs. State of Punjab and Others, in the matter of Gurpreet Singh -vs- State of Punjab and others and submitted that, the reinstatement means, back into service from the date on which he was dismissed and it deemed to have been continued in service from the date on which he joined the service till retirement. This aspect of the matter has not been considered by the Labour Court.

4. On the other hand, Sri. Rarnachandran, learned Counsel for the respondent submitted that, it is not in dispute that the petitioner was dismissed from service and he was reinstated by virtue of award passed by the Labour Court in LD. No. 195/1988 and the said award only reads as under:

The 2nd party is directed to reinstate the 1st party forthwith if he has not attained the age of superannuation. He shall be paid 25% of backwages from the date of refusal of employment i.e. 23.12.1988 upto date of reinstatement.

The Labour Court did not grant either continuity of service or consequential benefits. He also submitted that, even if it is treated as continuity of service, petitioner is not entitled for consequential benefits, as there is no express award passed in this regard. To support his contention, he relied on the judgment of the Apex Court reported in 2001 SCC (L&S) 3 para-8 and submitted that, grant of reinstatement does not confer right of claim of consequential benefits, as the said relief deemed to have been denied by the Labour Court itself. Similarly, he relied on another judgment reported in Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) and Others Vs. Abdul Kareem, in the matter of A.P. State Road Transport Corporation and Others -vs- Abdul Kareem para-10 and 11 and submitted that, in the absence of specific direction in that regard, merely because an employee has been directed to be reinstated without backwages, he cannot claim a benefit of increments notionally earned during the period when he was out of service. Continuity of service and a direction where reinstatement is accompanied by a specific direction that the employee shall be entitled to all the consequential benefits, which necessarily flow from reinstatement or accompanied by a specific direction that the employee shall be entitled to the benefit of the increments earned during the period of absence.

5. He further relied on two other judgments reported in (2007) 2 SCC (L&S) 166 in the matter of Handurd (Walt") Laboratories -vs- Dy. Labour Commissioner and others and 2008 (2) L.L.N. 711 in the matter of I. Laxma Reddy vs-Andhra Pradesh State Road Transport Corporation and others.

6. It is now well settled that, if the award is silent as regard to the grant of consequential benefits and if the award only grants reinstatement, it does not confer any right on the workman to claim consequential benefits. In this case, admittedly, there is no award for continuity of service and consequential benefits, as such, when there is no express award passed in favour of the petitioner, petitioner, merely because he has been reinstated into service, he does not automatically get the consequential benefits. Hence, the Labour Court has rightly held that the petitioner is gainfully employed and is not entitled for any consequential benefits. I find no ground to interfere with the same.

Hence, the petition fails and same is dismissed.