(2021) 01 KL CK 0044

In the High Court Of Kerala

Case No : Writ Appeal No. 1768 Of 2020

South India Wires And Ropes Ltd — APPELLANT

Vs

Aravindakshan K — RESPONDENT

Date of Decision : 04-01-2021

Acts Referred:

Citation : (2021) 01 KL CK 0044

Hon'ble Judges : Alexander Thomas, J;T.R .Ravi, J

Bench : Division Bench

Advocate : Deepu Thankan, Ummul Fida, K.A. Hazan

Final Decision : Disposed Of

Judgement

Alexander Thomas, J

1. Heard Sri.Deepu Thankan, the learned counsel for the appelleants and Sri.K.A. Hazan, the learned counsel appearing for the respondent workmen in these cases. It is now appraised to this Court by both sides as the matter in issue that the above said writ appeals are arisen out of the common judgment rendered by the Court in various writ petitions including the present writ appeals, and that the Division Bench of this Court has already rendered judgment dated 23.11.2020 in W.A.No.1506/2020 (arising out of W.P.(C)No.13679/2020), mainly upholding the judgment of learned single Judge in the above W.P(C)s but only reducing the rate of interest from 9% to 7% etc., and that the matter in issue is covered by the said Division Bench judgment dated 23.11.2020, rendered in W.A.No.1506/2020 etc. The judgment of the Division Bench of this Court rendered on 23.11.2020 in W.A.No.1506/2020 reads as follows:

"The appeal has been filed by the petitioner in W.P.(C) No.13679/2020. In fact, this is the first case in the batch of writ petitions, that came to be decided by the learned single Judge. The writ petitions were filed challenging an order passed by the Labour Court in a batch of claim petitions under Section 33C(2) of the Industrial Disputes Act, 1947 [for short, 'ID Act']. The workmen were persons who had retired from the service of the first appellant Company prior to 31.12.2010. An agreement came to be executed between the Union and the Management agreeing to settle the dues due to those persons, who were superannuated prior to 31.12.2010 and also who were on the rolls of the Company as on 31.12.2010. The company was initially wound up, but later this Court had recalled the winding up order. disposing of the Company Petitions, While several claims were made by the workmen, who were superannuated prior to 31.12.2010. However, on account of the dispute raised, they were permitted to move the appropriate forum for adjudication of their claims. Pursuant to the said direction in Company Appeal Nos.7 and 8 of 2017, the workmen had preferred the claim before the Labour Court under Section 33C(2) of claims, the Act, 1947. Tribunal After adjudicating the respective allowed claim nos.II and III and directed the Management to pay interest on the said claims at 9% p.a. These batch of cases came to be impugned before the learned single Judge. The award of claim No. II was partly modified by the learned single Judge, restricting it to the extent of grant of bonus at `2,500/-. Claim No.III was upheld.

2. The learned counsel appearing for the appellant submits that the claim was not at all justifiable insofar as the Labour court did not have jurisdiction to entertain a claim with reference to a disputed amount. According to the learned counsel, the amount legally due to a retired employee had been paid and what had been claimed by them was in excess of their legal entitlement, as per the settlement arrived between the workmen and the Management. Specific reference was made to clause B of the memorandum of settlement dated 28.02.2011, which reads as under: "B.The Workmen will be paid 1.25 months salary and DA for every completed year of service till 31.12.2010."

The above clause according to the Management was applicable only to those workmen, who were eligible for the VR scheme. However, the Tribunal came to a finding that the said claim, which forms part of the settlement with the workmen, was applicable to the workmen who have retired prior to 31.12.2010 as well. The learned single Judge also concurred with the aforesaid view in the light of the fact that a fact finding authority had already taken a decision based on appreciation of facts and evidence placed on record, as rightly observed by the learned single Judge, there is no reason for this Court to interfere with the said factual findings. Therefore, we do not think it necessary for us to interfere with the finding of the Labour court to the extent concurred by the learned single Judge.

3. The learned counsel for the appellant would submit that the liability to pay such huge amounts had arisen on account of the rate of interest that was made applicable from the date of settlement. Apparently, when there is delay on the part of the Management in paying the amount, which is found to be legally due to the workmen, necessarily interest has to be paid. The Tribunal felt that 9% interest on the amounts payable will be justified. However, taking into account the overall facts and circumstances and the fact that for a long period of time,

the company was wound up and a new Management had taken over, it will be appropriate that the interest is reduced to 7% p.a. We are of the view that 7% interest will be justified enough to compensate the delay in paying the amounts. In the result, we dispose of this writ appeal as under :

i. The order of the Labour Court granting 9% interest shall stand reduced to 7% p.a.

ii. The Management shall pay the amounts due, as directed by the learned single Judge after recomputing the aforesaid interest, as expeditiously as possible. "

Accordingly, it is ordered that these writ appeals will also stand covered by the directions and orders already issued by this Court in judgment dated 23.11.2020 in W.A.No.1506/2020. In other words these writ appeals will be regulated with the following orders

i. The order of the Labour Court granting 9% interest shall stand reduced to 7% p.a.

ii. The management shall pay the due amounts, as directed by the learned single Judge after recomputing the aforesaid interest, as expeditiously as possible.

With these observations and directions, these writ appeals will stand disposed of.

