

(2015) 07 KAR CK 0198
In the Karnataka High Court
Case No : Writ Petition No. 2861/2009 (L-Res)

The Director, Lakshman Chemicals Pvt. Ltd.

APPELLANT

Vs

C. Rudrappa

RESPONDENT

Date of Decision : 17-07-2015

Acts Referred:

Citation : (2015) 07 KAR CK 0198

Hon'ble Judges : Ravi V. Malimath, J

Bench : Single Bench

Advocate : S.C. Bheemaraddi, for the Appellant; F.V. Patil, Advocates for the Respondent

Final Decision : Allowed

Judgement

Ravi V. Malimath, J—The respondent who was working as a Supervisor with the petitioner was terminated on 06.05.1985. On failure of conciliation, the matter was referred to the Labour Court. He raised an industrial dispute before the Labour Court. The Labour Court awarded reinstatement with 50% backwages. Aggrieved by the same, the Management filed W.P. No. 1590/1994 and the workman filed W.P. No. 22185/1994. A memo was filed therein which was accepted to the effect that the workman shall be reinstated without backwages. The memo was taken on record and by the order dated 15.11.1995 both the writ petitions were disposed off. Thereafter, the respondent filed an application in No. 7/1997 under Section 33-C (2) before the Industrial Tribunals Act. The same was dismissed. Aggrieved by the same, he filed W.P. No. 18559/2002. By the order dated 20.11.2003, the writ petition was dismissed. Aggrieved by the same, the workman filed W.A. No. 54/2004. By the order dated 27.05.2005, the matter was remanded to the Labour Court to adjudicate as to what are the benefits that the workman is entitled to. By the impugned order, the Labour Court held that the workman shall be paid pay a sum of Rs. 81,085-54 ps with interest etc., Aggrieved by the same, the Management has filed this petition.

2. Sri S.C. Bheemareddi, learned counsel for the petitioner contends that the

impugned order is bad in law and the same requires to be set aside, that the Labour Court committed an error in passing the impugned order; that there is no direction by the Writ Appeal court to grant consequential benefits; that the matter has been remanded to the Labour Court for fresh decision of the application filed by the workman based on the observations made therein. The observations are as to what are the benefits which the workman is entitled to. He therefore pleads that when the matter was settled between the Management and the workman, the same was to the effect that there shall be reinstatement without backwages. There is no reference to the consequential benefits. Therefore, the Labour Court committed a serious error in holding that consequential benefits require to be granted. The order of the division bench is silent on that. Therefore, the Labour Court has miserably misread the order of the appellate court.

3. On the other hand, Sri F.V. Patil, learned counsel for the respondent/workman defends the impugned order. He contends that there is a specific direction by the appellate court that consequential benefits had to be granted and the matter has been remanded only for the purpose of such a calculation. He therefore submits that when there is a direction by the appellate court, the Labour Court has rightly passed the impugned order and hence, no interference is called for.

4. Heard learned counsels.

5. The cause for the continued litigation is the settlement arrived at between the Management and the workman in W.P. No. 1590/1994 c/w. W.P. No. 22182/1994. In terms whereof the workman was to be reinstated without backwages. There is no reference to the consequential benefits. In the series of litigation that ensued after that, as referred to hereinabove, ultimately the Writ Appeal court remanded the matter to the Labour Court for a fresh consideration. While so remanding, it held at paragraphs 2 and 3 as follows:

"2. We have heard the learned counsel for the parties and are of the view that the writ appeal deserves to succeed. As already observed the appellant had given up his claim to back wages only when the dispute was settled in this Court in the earlier round of litigation. Notwithstanding that he is entitled to claim continuity of service and other consequential benefits. What are those benefits is a matter which the Labour Court will have to decide. Whether that includes bonus or not is again an issue which the Labour Court will adjudicate upon and it is open to the Management to raise all objections that may be available to it in accordance with law. We are clearly of the view that the Labour Court grossly erred in law in dismissing the application filed by the appellant and the learned single Judge was also in error in upholding the same.

3. In the result, the writ appeal is allowed. The order of the learned single Judge and that of the Labour Court passed under Section 33(C)(2) of the Act are set aside and the case is remanded to the Labour Court, Hubli, for a fresh decision of the application filed by the appellant in accordance with the observations made

herein above. Parties through their counsel have been directed to appear before the Labour Court, Hubli, on June 20, 2005 for further proceedings. No costs."

6. The reading of the said order is very clear. It does not call for any interpretation. The order of the learned Single Judge and the Labour Court was set aside and the matter was remanded to the Labour Court for a fresh consideration in accordance with the observations made therein. Paragraph 2 is the observations made by the Writ Appeal Court. Therein they take note of the fact that the workman had given up his claim for backwages notwithstanding the fact that he is entitled to claim the consequential benefits. The Writ Appeal court does not state that he is entitled for consequential benefits and rightfully so. What the Writ Appeal Court holds is that the benefits namely with regard to the consequential benefits is a matter which the Labour Court will have to decide. Whether the consequential benefits include bonus is again an issue which the Labour Court would decide. There is not even a single sentence in the said order directing grant of consequential benefits to the workman. It is herein that the learned counsel for the respondent has misread the order of the Appellate Court. His consistent plea is that the Appellate Court has directed grant of consequential benefits. By no stretch of imagination such an interpretation can be made in terms of the observations of the Appellate Court in paragraph 2. What is the effect of the settlement and whether it includes consequential benefits or not should have been decided when the matter was settled. There is no observation with regard to consequential benefits. There is no order that he is not entitled to consequential benefits or that he is entitled to it. The Writ Appeal Court was very clear in saying that these benefits have to be decided by the Labour Court. It has once again left open the issue as to whether he is entitled for any consequential benefits or not. Therefore, to hold that the order of settlement arrived at in W.P. No. 1590/1994 c/w. W.P. No. 22182/1994 has to be read as inclusive of grant of consequential benefits is misreading the order of the Writ Appeal Court.

7. Notwithstanding the same, the learned Single Judge on whose order the Writ Appeal was filed, was very categorical in his findings. By the order dated 20.11.2002 passed in W.P. No. 18559/2002 it was held in paragraph 7 as follows:

"7. When once by consent of parties, the entire claim regarding back wages has been given up, the petitioner is not entitled to any monetary benefits. The particulars given under section 33-C(2) of the Act pertain to the claim of bonus for period anterior to the order of the High Court and the difference of salary after reinstatement. As is clear from the memo and the order of the High Court it is clear that the same has been given up and therefore the Labour Court was fully justified in declining to grant the aforesaid amount."

8. This was the view expressed by the learned Single Judge when the matter came up for adjudication in the first round. The Appellate Court even though set aside the order of the learned Single Judge did not categorically hold that the workman is entitled for consequential benefits. It has remanded the matter for the Labour Court to adjudicate whether the workman is entitled to it or not. I"

am of the considered view that the entire proceedings has proceeded on and on in a manner to interpret the first order passed in W.P. No. 1590/1994 c/w. W.P. No. 22182/1994. Much is even made about this order. Benefits are sought to be claimed based on certain observations in the order of the Appellate Court in W.A. No. 54/2004. When the order dated 15.11.1995 passed in W.P. No. 1590/1994 c/w. W.P. No. 22182/1994 does not relate to the grant of consequential benefits, it cannot be read subsequently that the order intended to grant continuity of service. If at all there was such a serious dispute on the interpretation, the workman should have sought for its clarification as to whether he is entitled for continuity of service which was not granted to him in the order dated 15.11.1995. In the absence of granting continuity of service and when the order has been silent, it cannot be read that continuity of service has to be granted. That is not the direction issued by the Writ Appeal Court. Under these circumstances, I" am of the considered view that the Labour Court misdirected itself in coming to such a conclusion.

9. Furthermore, in paragraph 7 of its order, the Labour Court held as follows:

"7. xxx xxx xxx xxx While holding that the applicant is entitled to consequential benefits, the Division Bench of the Hon"ble High Court has directed this Court to decide what are the consequential benefits to which the applicant is entitled."

10. The Writ Appeal court did not hold that the workman was entitled to any consequential benefits. This is the fundamental error committed by the Labour Court. The Labour Court has misread the directions issued by the Writ Appeal Court. Under these circumstances, when the original order of settling the dispute of the parties did not include continuity of service etc., the workman would not be entitled for the same.

Consequently, the petition is allowed. The order dated 03.12.2008 passed in Application No. 7/1997 by the Prl. Labour Court, Hubli, vide Annexure-H is quashed.