
(2015) 03 KAR CK 0197

In the Karnataka High Court

Case No : Writ Petition No. 84418 of 2013 (S-KSRTC)

Vaman

APPELLANT

Vs

The Management NWKRTC

RESPONDENT

Date of Decision : 06-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Industrial Disputes Act, 1947 — Section 33-C(2)

Citation : (2015) 03 KAR CK 0197

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : T.M. Nadaf for M.J. Peerjade, for the Appellant; S.S. Badawadagi, Advocates for the Respondent

Final Decision : Disposed off

Judgement

B. Veerappa, J.—The petitioner, who is the workman under the respondent/management, has filed the above writ petition, challenging the order dated 31.03.2012 made in Application No. 58/2011, allowing the application and declaring that the applicant/petitioner is entitled to Rs. 60,871/- with interest at 12% per annum, from the date of application till realisation of the entire dues.

2. The petitioner, who is the applicant before the Addl. Labour Court, Hubli, filed an application under Section 33-C(2) of the Industrial Disputes Act, 1947, (for short "the Act"), to compute the dues amounting to Rs. 76,055/- as shown in Annexures and direct respondent to pay the said amount together with interest at 10% per annum from 09.01.2004 to 27.12.2006, alleging that he was appointed as a Conductor in the respondent/Corporation in the year 2000 and though the petitioner completed the probationary period of two years on 09.01.2004, he was paid salary in the probationary scale, despite several requests made by the petitioner. Therefore, petitioner has issued a legal notice to the respondent in this regard. Hence, the petitioner has requested to allow the application.

3. In response to the notice issued by the Labour Court, the respondent/ Management filed objections stating that the petitioner has directly approached the Court and is entitled to get Rs. 60,871/- only, the petitioner/applicant has approached this Court at a belated stage of four years, etc. Hence prayed for dismissal of the application.

4. Based on the above pleadings, the Labor Court framed the following points:

"(i) Whether the applicant is entitled to recover Rs. 76,055/- together with interest at 10% penalty amount, from the respondent?

(ii) What order?"

5. In order to establish the claim, the petitioner examined himself as AW-1 and marked Exs. A-1 to 8; on the other hand, the respondent/Management did not lead any evidence, both oral or documentary.

6. After hearing both the parties, learned District Judge and Presiding Officer of the Labour Court has allowed the application in part, holding that the applicant is entitled to recover only Rs. 60,871/- towards the dues together with interest at 12% per annum from the date of the application i.e., 26.12.2011 till realisation of the entire dues. Against the said order, the present writ petition is filed by the applicant.

7. I have heard the learned counsel for the parties to the lis and perused the entire material on record.

8. Learned counsel for the petitioner, Sri. T.M. Nadaf, learned counsel appearing on behalf of Sri. M.J. Peerjade, has contended that the order passed by the Labour Court is contrary to the records and the petitioner is entitled to Rs. 76,055/- with interest at 10% per annum from 09.01.2004 to 27.12.2006. Therefore, the order passed by the Labour Court granting only Rs. 60,871/- is not correct and the petitioner is entitled for entire amount claimed.

9. Sri. Shivakumar S. Badawadagi, learned counsel representing the respondent/ Management, sought to justify the impugned order and requested for dismissal of the writ petition.

10. It is an admitted fact that the petitioner has filed an application under Section 33-C(2) of the Act, claiming an amount of Rs. 76,055/- with interest at 10% per annum from 09.01.2004 to 27.12.2006.

11. Though, the respondents have filed objections and contested the matter, they have admitted the claim of the applicant in categorical terms in the objection statement to the effect that the applicant is entitled to get Rs. 60,871/- only and not Rs. 76,055/- as claimed. On appreciating the entire material on record, the Labour Court recorded a specific finding that the applicant has produced his appointment order, Divisional Establishment order, salary slips, letter of the respondent and copy of the legal notice at Exs. A-1 to 6 and the respondent/Management has admitted that the applicant is entitled to recover

Rs. 60,871/- only from the respondent towards arrears and the applicant has also produced the particulars of his service issued by the respondent. However, they could not be marked as they are xerox copies. Taking into all these aspects, the Labour Court has held that the applicant is entitled to recover Rs. 60,871/- with interest at 12% per annum from the date of application, till the realisation of entire dues.

12. The said finding recorded by the Labour Court is based on the oral as well as documentary evidence produced by the petitioner. The same is in accordance with law. Therefore, the impugned order does not call for any interference by this Court in exercise of powers under Article 226 or 227 of Constitution of India.

13. However, it is brought to the notice of the Court that the respondent/Management also filed writ Petition No. 1806/2012 before this Court against the very order passed by the Labour Court, dated 31.03.2012, made in Application No. 58/2011 and this Court by an order dated 21.03.2013 has rejected the said writ petition filed by the Management.

14. It is also stated by the counsel for the petitioner that in spite of the order passed by the Labour Court and the rejection of the writ petition on 31.03.2013, till today, the management has not paid any single paise in pursuance of the order passed by the Labour Court. Even though, the order was passed on 31.03.2012 by the Labour Court and the same has been confirmed at the instance of the Management on 21.03.2012 in W.P. No. 1806/2012, the Management has not paid the dues. It shows that the Management is harassing the workman.

15. At this stage, learned counsel for the Management fairly stated that the entire amount due to the petitioner with interest will be paid within a period of one month.

Taking the submissions made at the Bar on record, the writ petition is disposed of.

If the respondent/Management fails to pay the amount due to the petitioner within a period of one month, inspite of the undertaking given by the learned counsel for respondent No. 2, it is for the petitioner to file a contempt petition or to take appropriate steps against the Management, in accordance with law.