

BEFORE THE ADDITIONAL LABOUR COURT, COIMBATORE.

PRESENT : **Thiru. A.MANIMOZHI, B.A, LL.B.,**
Presiding Officer,
Additional Labour Court, Coimbatore.

Wednesday, the 10th Day of July 2019

COMPUTATION PETITION No.1/2018

Thiru.Kodeeswaran,
C/o.Ravichandran, Vice President,
Plantation Worker's Union Congress,
Tantea, Paravakad,
Kotagiri (Post), Nilgiris. ... Petitioner

..Vs..

District Forest Officer,
Nilgiris North Division,
Udagamandalam,
Tamilnadu Forest Department,
Nilgiri District. ... Respondent

This petition coming on for final hearing before me on 21.06.2019
in the presence of Tr.K.M.A.Subramaniam, Authorised Representative for
the Petitioner; and the Respondent being called absent and set exparte; and

upon perusing the petition and other connected records and upon hearing the arguments of petitioner side and having stood over till this day for consideration, this court passed the following:-

ORDER

This computation petition has been filed by the Petitioner u/s.33-C (2) of the Industrial Dispute Act-1947 to compute the amount (Back-wages) due to him at Rs.1,23,366/- (Rupees One Lakh Twenty three thousand three hundred and sixty six only), for the period from 20.09.2016 to 30.11.2017 and to direct the respondent to pay the said amount to the petitioner.

2. The averments made in the petition are in brief as follows:-

a) The petitioner worked under the respondent as Anti Poaching Watcher from 01.01.1996 to 01.11.2006 continuously without any break in services. The respondent illegally dismissed the petitioner on 01.11.2006. Petitioner raised dispute in I.D. No.562/2008 before the Labour Court, Coimbatore. An award was passed on merits, setting aside the dismissal and the respondent was directed to reinstate the petitioner with continuity of service and with 50% back-wages. After receipt of the award, the petitioner sent a letter to the respondent by registered post on 07.09.2016.

But the respondent neither issued any reply to the petitioner nor reinstated him in services. The petitioner approached the respondent in person and requested to provide work, but the respondent refused to provide employment by stating that he is going to prefer appeal against the award. The petitioner is entitled to claim 50% back-wages from 01.11.2006 as per the award.

b) The petitioner already filed a computation petition in C.P. No.83/2017 claiming 50% back-wages for the period of non-employment. The respondent did not appear before the court even after service of notice and so he was set exparte and the said petition was allowed. The award dated 06.07.2016 was published in the office of the Labour Officer, Coonoor on 19.08.2016. The respondent is liable to implement the award within 30 days from the date of publication of the award and provide employment to the petitioner from 20.09.2016. But, the respondent has not implemented the award. The similarly placed watchers are being paid wages at the rate of Rs.9,262/- p.m. from 20.09.2016. So, the petitioner is also entitled to claim same wages for the period of non-employment from 20.09.2016. Hence, this petition.

3. After the case was taken on file summons was sent to the respondent. The respondent has received the summons for the hearing

dated 03.02.2018 (by RPAD) and the Government pleader, Coimbatore entered appearance and filed Memo of Appearance for the respondent. Subsequently, respondent neither appeared nor filed counter statement inspite of several opportunities and so the respondent was called absent and set exparte on 15.05.2019.

4. On the side of petitioner, in the enquiry, the petitioner examined himself as W.W-1 and marked Ex.W-1 to W-4.

5. Heard the arguments of the petitioner side.

6. The POINTS for determination are as follows:

- (1) Whether the petitioner is entitled for computation of amount as claimed in the petition?
- (2) To what other relief the petitioner is entitled to?

Answer for the POINTS Nos.1 and 2:-

7. To prove the claim, the petitioner has deposed as W.W-1. Ex.W-1 is the copy of the award passed in I.D. No.562/2008 dated 06.07.2016. Ex.W-2 is the Copy of the letter sent by the petitioner to the respondent, through registered post on 07.09.2016. Ex.W-3 is the Copy of the letter sent

by the petitioner to the Labour Officer on 13.10.2016. In both the letters the petitioner has clearly stated about the non-implementation of the award by the respondent. The oral evidence of the petitioner and the above Ex.W-1 to W-3 would prima facie show that the petitioner is entitled to claim wages from 20.09.2016, as the respondent has failed to comply with the award passed by the Labour Court, Coimbatore. Perusal of the award reveals that the monthly wages of the petitioner has been mentioned as Rs.9,262/- therein. Ex.W-4 the pay statement copies of Mr.Bosemani and Ramachandran, Anti Poaching Watchers, reveals that their monthly wages was Rs.9,262/- for the month of June 2017. The petitioner has calculated the amount at Rs.1,03,915/- as 50% back-wages for the period from 01.11.2006 to 19.09.2016, and filed already C.P. No.83/2017 and the same was allowed on 10.10.2017. Now, in this petition he has calculated the amount to Rs.1,23,366/-(Rupees One Lakh Twenty three thousand three hundred and sixty six only), as wages arrears for the period from 20.09.2016 to 30.11.2017, which is in compliance with the award under Ex.W-1, since the respondent has refused to provide employment to the petitioner.

8. To controvert the evidence of the petitioner, the respondent has not adduced any evidence, on the contrary, the respondent remained

exparte. Under the said circumstances accepting the oral evidence of the petitioner and Exs.W-1 to W-4, I hold that the petitioner is entitled for computation of amount of Rs.1,23,366/-, as prayed in the petition. The petitioner is also entitled for a cost of Rs.2,000/-. Accordingly, these points are answered in favour of the petitioner.

RESULT:-

9. In the result, this computation petition is allowed by computing the monetary relief claimed in this petition at Rs.1,23,366/- (Rupees One Lakh twenty three thousand three hundred and sixty six only) together with cost of Rs.2000/-(Rupees Two thousand only).

Dictated to Steno Typist directly and typed by her in computer directly, corrected and pronounced by me in open Court this 10th day of July 2019.

-Sd.A.Manimozhi-
PRESIDING OFFICER,
ADDITIONAL LABOUR COURT,
COIMBATORE.

LIST OF WITNESSES EXAMINED

For Petitioner's Side:- W.W.1 – Mr. M.Kodeeswaran

For Respondent's Side:- Nil

LIST OF EXHIBITS MARKED**For Petitioner's Side:-**

Ex.W-1	06.07.2016	Copy of the award passed in I.D. No.562/2008 (Copy of the Letter of Labour Officer dated 19.08.2016 enclosed).
Ex.W-2	07.09.2016	Copy of Letter sent by the Petitioner to the Respondent.
Ex.W-3	13.10.2016	Copy of Letter sent by the Petitioner to the Labour officer, Coonoor.
Ex.W-4	01.05.2017	Copy of Pay Statements for the month of June 2017 issued to Mr.Bosemani and Mr.Ramachandran.

For Respondent's Side:- NIL.

-Sd.A.Manimozhi-
PRESIDING OFFICER,
ADDITIONAL LABOUR COURT,
COIMBATORE.

FAIR ORDER

C.P. No.1/2018

DATE:10.07.2019

ADDITIONAL LABOUR COURT,
COIMBATORE.