

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY 2015

BEFORE

THE HON'BLE MR. JUSTICE ASHOK B. HINCIGERI

W.P.NO.5579 OF 2012 [L-TER]

AND

W.P.NO.5580 OF 2012

BETWEEN

SHRI R.MOHAN
S/O LATE P.RAJU
AGED ABOUT 51 YEARS
RESIDING AT B-776
BDA ROW HOUSE, SERVICE ROAD
4TH PHASE, DOMLUR II STAGE
BENGALURU 560 071.

... PETITIONER

(BY:SRI A.J.SRINIVASAN, ADVOCATE)

AND:

MANAGEMENT OF BANGALORE CLUB
REP. BY MANAGER PERSONNEL
FIELD MARSHAL K.M.CARIAPPA ROAD
BENGALURU 560 025.

... RESPONDENT

(BY:SRI SUBRAMANYA, ADVOCATE FOR
SRI B.C.PRABHAKAR, ADVOCATE)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE ENTIRE RECORDS RELATING TO I.D.NO.210/06 ON THE FILE OF THE SECOND ADDL. LABOUR COURT, BANGALORE & GRANT THE PETITIONER AND QUASH THE IMPUGNED ORDER DATED 28.10.06, PASSED BY THE SECOND ADDL. LABOUR COURT, BENGALURU IN I.D.NO.210/06, A CERTIFIED COPY OF WHICH IS AT ANNEXURE-G AND QUASH THE AWARD DATED 31.1.11 PASSED BY THE SECOND ADDL. LABOUR COURT, BENGALURU IN I.D.NO.210/06, A CERTIFIED COPY OF WHICH IS AT ANNEXURE-H AND ETC.

THESE W.Ps. COMING ON FOR REPORTING THE SETTLEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

The petitioning workman has called into question the Labour Court's order, dated 28.10.2006 (Annexure-G) holding that the domestic enquiry conducted by the Management is fair and proper and the award, dated 31.1.2011(Annexure-H) in I.D.No.210/2006 rejecting the petitioner's application filed under Section 10(4A) of the Industrial Disputes Act, 1947 on the ground that the petitioner, who was incharge of the Health Club on 20.1.2002 abused a lady instructor using vulgar language. He was dismissed from service on 26.8.2002. On the Labour Court rejecting the petitioner's claims, he has instituted these petitions.

2. Now the parties have arrived at a negotiated settlement. They have filed the joint memo duly signed by themselves and their respective learned advocates. The parties and their signatures are identified by their respective learned advocates.

3. Sri R.Mohan, the petitioner, Sri Immanual, Manager (Personnel) of the respondent Club state that they have entered

into the settlement of their own volition and without any duress from anybody.

4. The joint memo reads as follows:-

"The parties named above beg to submit as follows:-

1. The Petitioner has filed the above Writ Petition challenging the legality and correctness of the Award dated: 31.1.2011 passed by the First Addl. Labour Court, Bangalore in I.D.No.210/2006 (Old No.102/2002).

2. Whereas during the pendency of the Writ Petition, the Petitioner has approached the Respondent Management for out of Court Settlement by paying a lumpsum amount in full and final settlement of all his claims.

3. Whereas after several rounds of discussions, both the parties have agreed to settle the matter on the following terms.

TERMS OF SETTLEMENT

(i) It is agreed between the parties that the Respondent Management shall pay the lumpsum compensation of Rs.1,75,000/- (One lakh Seven Five thousand only) in full and final settlement of all his claims.

(ii) It is agreed by the Petitioner to receive the lumpsum compensation of Rs.1,75,000/- (Rupees one lakh seventy five thousand only) as indicated above in full and final settlement of all his claims.

(iii) It is agreed between the parties that the compensation amount as indicated will be paid within one week from today by way of cheque.

(iv) With this, the relationship of the Employer and employee has come to an end between the parties from the date of the dismissal i.e., 26.8.2002 itself.

(v) Further, it is agreed by the above named Petitioner that his claims are fully settled and undertake that he will not make any claims whatsoever on the Respondent Management before any other Forum.

Wherefore both the parties respectfully pray that this Hon'ble Court may be pleased to dispose of Writ Petition in terms of the Joint memo of Settlement and modify the award impugned in terms of the settlement in the interest of justice and equity.”

5. These petitions are disposed of modifying the impugned award in terms of the joint memo extracted hereinabove.

Sd/-
JUDGE

VGR