

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

THURSDAY, THE 25TH DAY OF JULY 2024 / 3RD SRAVANA, 1946

OP(LC) NO. 2019 OF 2013

CP NO.19 OF 2011 OF LABOUR COURT, ERNAKULAM

PETITIONER/OPPOSITE PARTY/MANAGEMENT:

THE MANAGING DIRECTOR,
QUATTRO INVESTMENTS PVT.LTD.

BY ADVS.
SRI.SANTHOSH MATHEW
SRI.ARUN THOMAS
SRI.JENNIS STEPHEN

RESPONDENT/PETITIONER/WORKMAN:

JOY MATHEW

BY ADV SMT.A.K.PREETHA

THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD ON
23.07.2024 AND THE COURT ON 25.07.2024 DELIVERED THE
FOLLOWING:

N. NAGARESH, J.

.....
O.P.(LC) No.2019 of 2013
.....

Dated this the 25th day of July, 2024

J U D G M E N T

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The OP(LC) is filed against order dated 08.08.2012 in Claim Petition No.19/2011 of the Labour Court, Ernakulam. The petitioner is the Management/Employer and was opposite party in the Claim Petition. The respondent is the workman who filed the Claim Petition.

2. In the Claim Petition, the respondent submitted that he was working as Area Sales Manager with the Management from 03.03.2009 with a monthly salary of ₹22,000/- and ₹20,000/- as expenses per month. The complaint of the respondent about non-payment of salary did not yield any result. The respondent therefore resigned from service. The respondent claimed arrears of salary of ₹2,58,000/- filing the

Claim Petition in the Labour Court.

3. The petitioner-Management filed objections. The petitioner stated that the respondent does not come under the purview of Section 2(s) of the Industrial Disputes Act. The respondent was Area Sales Manager and had control and management of marketing. He was drawing a fixed salary of ₹2,64,000/- per year. In addition, he was entitled to incentive based on his performance. During the service with the petitioner-Management, he was employed by another Company. The respondent did not submit resignation letter as alleged.

4. The petitioner states that without considering the valid arguments of the petitioner and without appreciating evidence properly, the Labour Court, Ernakulam passed Ext.P3 order dated 08.08.2012 in C.P. No.19/2011. Ext.P3 order is illegal. The respondent is not a workman. The supervisory post and amount of salary would exclude the respondent from the ambit of Section 2(s). The respondent, while in service, did not give daily report or weekly report. He

was working for some other Company. The principles of 'no work no pay' would apply. The Labour Court failed to consider all the afore aspects.

5. The respondent resisted the OP(LC). The respondent submitted that the respondent examined himself as PW1 and produced Exts.P1 to P6 documents to establish his case. The Labour Court properly appreciated the materials on record and came to the conclusion that the respondent is a workman and wages were denied to him. The petitioner was therefore directed to pay ₹2,58,000/- to the respondent failing which the respondent was made entitled to 9% interest per annum from the date of order till realisation.

6. I have heard the learned Standing Counsel for the petitioner and the learned counsel representing the respondent.

7. The case of the petitioner is that the respondent was appointed as Area Sales Manager with an annual salary package of ₹2,64,000/-. Therefore, the respondent is not a workman. The petitioner further alleged that the respondent

did not work during the period for which he is claiming arrears of wages. Before this Court, the petitioner made available copy of appointment letter of the respondent for annual salary of ₹2.64 lakhs.

8. It is to be noted that though the petitioner appeared in the proceedings before the Labour Court, Ernakulam, the petitioner did not examine any witness nor did adduce any documentary evidence. There is no material on the records of the case to show that the respondent was discharging the duty of a Supervisor with an annual salary of ₹2,64,000/-. There is no oral or documentary evidence to suggest that the respondent has been working for another Company/Employer during the period in question. The Labour Court has passed Ext.P3 order based on the materials available on record. I find no legal justification to interfere with Ext.P3.

The OP(LC) is therefore dismissed.

Sd/-

N. NAGARESH, JUDGE

aks/23.07.2024

APPENDIX OF OP(LC) 2019/2013

PETITIONER'S EXHIBITS

EXT.P1 TRUE COPY OF THE CLAIM PETITION
NO.19/2011 OF THE LABOUR COURT,
ERNAKULAM

EXT.P2 TRUE COPY OF THE OBJECTION FILED BY THE
OPPOSITE PARTY IN CLAIM PETITION
NO.19/2011 OF THE LABOUR COURT,
ERNAKULAM

EXT.P3 TRUE COPY OF THE ORDER DATED 08-08-2012
IN CLAIM PETITION NO.19/2011 OF THE
LABOUR COURT, ERNAKULAM.