



W.P.(MD)No. 3632 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 3632 of 2014
and M.P(MD)No.1 of 2014

The Management,
South India Corporation Limited,
5/210, Tiruchendur Road,
Muthiahpuram. Tuticorin - 5
Represented by its Whole Time Director
Thiru.S.V.Raamaswamee

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Tirunelveli.

2. S.Mariappan

3. The Labour Officer,
Trivandrum Road,
Palayamkottai,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, to call for the records in relating to the Award passed by the first respondent in I.D.No.187 of 2000 dated 20.04.2009 but received from the 3rd respondent only on 04.09.2013 and to quash the same.



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For Petitioner : Mr.C.Karthikeyan
For R-1 & R-3 : Labour Court
For R-2 : Mr.L.Shaji Chellan

ORDER

This writ petition is filed to quash the impugned order, dated 20.04.2009, received on 04.09.2013 passed in I.D.No.187 of 2000.

2. Heard Mr.C.Karthikeyan, the Learned Counsel appearing for the petitioner and Mr.L.Shaji Chellan the Learned Counsel appearing for the 2nd respondent and perused the material documents placed on record.

3. The 2nd respondent was an employee of the Writ petitioner and he was working as a Driver. On 10.06.1999, the 2nd respondent has used one way road, thereby violating the traffic rules and regulations, hence, the Tuticorin Central Traffic Police Station registered a case against the 2nd respondent and directed him to bring the lorry to Central Police Station.



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4. The contention of the management is that the 2nd respondent without informing the said registration of case has taken a lorry and he was in Transporting from 06.30 p.m. to 09.30 p.m. Therefore, the management has issued a Show Cause notice, dated 05.07.1999 and after enquiry he was dismissed from service on 17.09.1999. Aggrieved over the same, he raised a dispute before the 1st respondent in I.D.No.187 of 2000. The management has contested the I.D. Finally, the Labour Court has passed order, dated 20.04.2009, directing the management to reinstate the 2nd respondent in the Chennai Unit and not in the Thoothukudi Unit, since the Thoothukudi Unit was closed. The relevant portion of the order passed by the Labour Court is as under:

.....
“மனுதாரரின் பணி நீக்கமானது சட்ட நிலையில்
செல்லத்தக்கதல்ல என்றும், தூத்துக்குடிக் கிளையில்
மனுதாரருக்குப் பணி வழங்காவிட்டாலும் கூட மனுதாரரை
சென்னை கிளையிலோ அல்லது வேறு கிளையிலோ பணி
வழங்கலாம் என்று கோரி நிவராணம் பெறுவதற்கு மனுதாரருக்குச்
சட்ட நிலையில் உரிமை உள்ளது என்று இந்நீதிமன்றம்
தீர்மானிக்கிறது.”

5. The contention of the 2nd respondent is that due to economic condition, accommodation in Chennai is a difficult task and also shifting the family is not feasible hence, he is not in a position to join in the Chennai Unit.



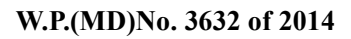
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6. In view of the above, this Court is of the considered opinion that the 2nd respondent cannot straightaway rejected the reinstatement granted by the management at Chennai office. The 2nd respondent ought to have joined at Chennai, thereafter ought to have requested to transfer to Thoothukudi or in and around Thoothukudi. Since the 2nd respondent has failed to do so and rejected the offer of the management, the 2nd respondent cannot claim reinstatement with backwages.

7. Furthermore, this writ petition has been filed in the year 2014, as on date, the 2nd respondent has attained superannuation.

8. The impugned order passed by the Labour Court, dated 20.04.2009, is hereby set aside. By considering all the facts stated supra, the 2nd respondent cannot be granted reinstatement. However, the 2nd respondent is entitled to some compensation. The petitioner is directed to pay a sum of Rs. 50,000/- as full quit, to the 2nd respondent.



Index : Yes / No
Internet : Yes
ksa

19.06.2023

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S.SRIMATHY, J

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**Order made in
W.P.(MD)No. 3632 of 2014**

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