

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936**

**OP(LC).No. 216 of 2010 (O)**

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ID. NO.29/2006 OF INDUSTRIAL TRIBUNAL, IDUKKI.**

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**PETITIONER:**

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**O.S. NARAYANAN,  
OLIKKAL, POOVARANI P.O.**

**BY ADV. SRI.S.ANANTHAKRISHNAN.**

**RESPONDENT(S):**

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**1. THE INDUSTRIAL TRIBUNAL, IDUKKI-685 582.**

**2. T.N. SAHADEVAN, THOTTUCHIRA,  
KUDAVACHOOR. P.O., VAIKOM-686 144.**

**\*3. KRISHNANKUTTY, ANAYAKUNNEL,  
KUDAYATHOOR, THODUPUZHA-686 158.**

**4. GEORGE KURIAN, MANAVATHU VEEDU,  
PUNNATHURA. P.O., ETTUMANOOR-686 583.**

**\*5. V.B. MOHANAN, PATHINETTIL HOUSE,  
PULIKUTISSERI. P.O., AYMANAM-686 015.**

**\* RESPONDENT NOS.3 AND 5 ARE DELETED FROM THE ARRAY  
OF PARTIES AT PETITIONER'S RISK AS PER ORDER DATED 27/01/2011  
IN OP(LC). NO.216/2010.**

**R2 BY ADV. SRI.P.RAMAKRISHNAN.  
R4 BY ADV. SRI.LIJI.J.VADAKEDOM.**

**THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD  
ON 03-03-2015, THE COURT ON THE SAME DAY DELIVERED  
THE FOLLOWING:**

**rs.**

OP(LC).No. 216 of 2010 (O)

**APPENDIX**

**PETITIONER'S EXHIBITS:-**

EXT.P1      COPY OF THE CLAIM STATEMENT.  
EXT.P2      COPY OF THE WRITTEN STATEMENT.  
EXT.P3      COPY OF THE REJOINDER.  
EXT.P4      CERTIFIED COPY OF THE AWARD.

**RESPONDENT'S EXHIBITS:-**                      **NIL.**

**//TRUE COPY//**

**P.S. TO JUDGE**

**rs.**

K.Vinod Chandran, J.

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O.P.(LC).No.216 of 2010-O  
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Dated this the 03<sup>rd</sup> day of March, 2015

**JUDGMENT**

The petitioner, a licensee under the Abkari Act, challenges Exhibit P4 award of the Labour Court in a reference made as to the denial of employment of the 2<sup>nd</sup> respondent.

2. I have heard the learned counsel for the petitioner as also the 2<sup>nd</sup> respondent.

3. The petitioner, admittedly, was the licensee for the years 2002-03 to 2006-07. The 2<sup>nd</sup> respondent was also admittedly a workman of Toddy Shop No.398 in Pala Range. The workman's claim, as is revealed from Exhibit P1, is that he was denied employment from November, 2002 and then subsequently he resumed his duty from 01/2003 and continued till 20.12.2003, when he was again denied employment. The Labour Court having considered the issue, found that the version of the management that the workman had voluntarily abandoned employment cannot at all be accepted. On mere probability, it

was held that the workman was denied employment. The workman was granted entire backwages from 02.11.2004 to 31.03.2007, the period in which the petitioner had been the licensee of the toddy shop.

4. The learned counsel for the management would contend that there is absolutely no discussion as to the evidence adduced before the Labour Court. The workman is said to have unauthorizedly absented himself for many days and on such irregular attendance, loss was caused to the management. The management had informed the same to the Taluk Union, whose Secretary had deposed in tune with the contention of the management. The workman was directed to rejoin duty, so as to enable the management to get over the loss which it had suffered by the irregular attendance of the workman. However, no document was produced to show the loss caused, the irregular attendance or the settlement arrived at.

5. Obviously the management had a contention of unauthorised absence, which, the management says, is very evident from the documents produced before the Labour Court.

However, there is no evidence to indicate that the management had initiated any proceedings against the workman for unauthorised absence; nor had the management terminated his service on that count. The management's specific case is abandonment of employment, which stands refuted insofar as Exhibit M1 lawyer notice dated 02.11.2004, where the workman sought for reinstatement in the toddy shop. The Labour Court had in fact granted backwages between 02.11.2004 and 31.03.2007, i.e., from the date of such notice. It is evident from Exhibit M2 that a reply notice was sent, in which, according to the management, there was a specific permission granted to rejoin, as soon as the loss is reimbursed.

6. Evidently there were disputes between the management and the workman and the same was also agitated before the representative body of the workman. It is also an admitted fact that the worker has not carried on any work in the period for which the backwages were granted. There is also an allegation that the workman had been carrying on toddy tapping work for another shop.

7. Taking all the aspects into consideration, this Court is of the opinion that there was no evidence as such for denial of employment; nor the management could prove clearly that the workman had abandoned his employment. Considering the nature of work of toddy tappers and also the licensing of toddy shops under the Abkari Act, it is proper that the workman be granted a compensation in lieu of denial of employment. This Court fixes such compensation at Rs.75,000/- [Rupees seventy five thousand only], which shall be paid by the petitioner within a period of two months from today.

The writ petition is disposed of as above.

Sd/-  
K.Vinod Chandran  
Judge

vku/-

[ true copy ]