

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

OP(LC).No. 1316 of 2010 (O)

IN ID 1/2000 of LABOUR COURT, ERNAKULAM

PETITIONER(S)/PETITIONER:

SECRETARY,
KERALA NON TEACHING STAFF & WORKERS, UNION (BMS),
DISTRICT COMMITTEE, SHORNUR ROAD,
THRISSUR-680 001.

BY ADVS.SRI.N.NAGARESH,
SRI.SHAJI THOMAS PORKKATTIL &
SRI.T.V.VINU.

RESPONDENT(S):

1. GENERAL SECRETARY,
SREE NARAYANA EDUCATIONAL & CULTURAL TRUST,
S.N.VIDHYABHAVAN, NH-17, CHENTRAPPINNI-680 687.
2. LABOUR COURT,
ERNAKULAM-682 031.

BY ADV. SRI.THAMPAN THOMAS.

THIS OP (LABOUR COURT) HAVING BEEN FINALLY HEARD ON
11-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT. P1 - TRUE COPY OF THE CLAIM STATEMENT DATED 01/07/2000 IN ID NO.1/2000 FILED BY THE PETITIONER.

EXT. P2- TRUE COPY OF THE WRITTEN STATEMENT DATED 21/05/2001 FILED BY THE 1ST RESPONDENT IN ID NO.1/2000.

EXT. P3 - TRUE COPY OF THE REJOINDER STATEMENT DATED 12/12/2001 IN ID NO.1/2000 FILED BY THE PETITIONER.

EXT. P4 - TRUE COPY OF THE AWARD IN ID NO.1/2001 DATED 20/08/2007 OF THE LABOUR COURT, ERNAKULAM.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. Vinod Chandran, J.

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O.P.(LC)No.1316 of 2010

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Dated this the 11th day of March, 2015.

JUDGMENT

1. Petitioner is a Union, aggrieved with Ext.P4 award of the Labour Court, Ernakulam. The Union espoused the cause of nine workers, who were said to have been illegally terminated from 27.4.1999. The controversy, which led to the termination, according to the Union, was the formation of a trade union in the management school. A charter of demands was submitted seeking increase in wages, on the ground that, minimum wages was not paid to them. The management then retrenched ten workers of the Union, by letter dated 24.4.1999. All the workers, so retrenched had service ranging between 3 to 16 years. The termination was alleged to be a vindictive action on the part of the management.

2. The management refuted the contention of the union and submitted that the retrenchment of the workmen was necessitated only for reason of the vehicles owned by the Trust, which was in management of the school, were sold. The vehicles were said to be purchased and managed by a separate unit of the Trust and the workers were said to have been employed to ply the said vehicles. The vehicles, having been sold, the unit itself was closed and there was no requirement of any workmen to operate such vehicles. It was also contended that, on 27.4.1999, when the nine workers were sought to be retrenched, they were offered one month's notice pay, as also compensation at the rate of 15 days' wages for every completed year of service as provided in Section 25F of the Industrial Disputes Act, 1947 (for brevity, the "Act"). One of the workmen accepted the compensation and other nine workers, through the union, raised the above dispute.

3. It was contended by the union in a rejoinder that, in fact, the very same buses were plied for the purpose of the school, even after the retrenchment of the workmen.
4. The Labour Court found that, the employment of the nine workmen in the establishment, is not disputed. That retrenchment compensation was offered, as provided under Section 25F, was also evidenced. Though there was a specific contention raised that the very same vehicles were plied, the cross-examination of W.W.1 did not, in fact, specifically disclose such an instance. The only case that comes across in cross-examination was that at present the school buses are plied by the Parent Teachers Association and the ownership of the vehicle is not known. It was specifically admitted that the school has not purchased any buses thereafter.
5. On the other hand, the management produced Exts.M10 and

M11, which were the notices published for sale of the vehicles. It was also an admitted case that, there was an instance of a strike in the school and an original petition for police protection was filed by the school authorities before this Court. After the said strike, the management had decided to sell off the vehicles. The Labour Court found that, there was absolutely no evidence to show that, the management resumed operation of the very same vehicles or had purchased new vehicles for the purpose of the school.

6. Though the petitioner union had a contention that the retrenched workmen were also employed in the school, besides their engagement in the vehicles, there was nothing produced to substantiate such contentions. The dominant nature of their employment remained as that in the vehicles. The Labour Court, on facts, found that there was nothing to show that the

termination was, in any manner, illegal or irregular. The management was also found to have offered retrenchment compensation under Section 25F of the Act. This Court does not find any reason to interfere with the award at Ext.P4. However, it is made clear that, if the nine workmen had not been paid the retrenchment compensation, they shall be paid retrenchment compensation along with one month's pay, within a period of two months from the date of receipt of a certified copy of this judgment.

Writ petition is disposed off with the above direction.

K. Vinod Chandran, Judge.

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