

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.17419 of 2011

The Joint Secretary
Central Board of Secondary Education
Anna Nagar
Chennai 40

.. Petitioner

Vs.

1. The Presiding Officer
Central Govt.Industrial Tribunal-cum-
Labour Court
1st floor, Block NO.6, Shastri Bhavan
26, Haddows Road
Chennai 6

2. K.Soundararajan

.. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari calling for the records of the 1st respondent dated 27.4.2011 and made in I.D.No.3 of 2007 setting aside the Termination Order of the 2nd respondent from the service of the petitioner as to reinstate without backwages and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.G.Nagarajan

For Respondents : Mr.Balan Haridass for R2
R1-Tribunal cum Labour Court

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O R D E R

The petitioner is the Central Board of Secondary Education and the challenge is to the award of Central Government Industrial Tribunal cum Labour Court in I.D.No.3 of 2007.

2. The second respondent filed a Claim Petition under section 2-A(2) of Industrial Dispute Act, challenging the action of the petitioner in denying him employment and stating that he has been terminated from service.

3. The case of the second respondent is that he was appointed as a Peon on 5.8.1991 in the office of the Joint Secretary, Central Board of Secondary Education, Nungambakkam and he was transferred to the petitioner's office in 1994 and worked as casual labourer and that he was paid a salary of Rs.1,333/- per month and he had been working continuously for 240 days in a year without any break. The second respondent further submitted that he was terminated from service on 31.1.1995 without any notice and in violation of principles of Industrial Disputes Act. Therefore, the second respondent claimed for reinstatement with continuity in service and backwages.

4. The petitioner resisted the application contending that the provisions of Industrial Disputes Act will not apply to the Central Board of Secondary Education. As regards the merits of the claim, it is submitted that the second respondent himself admitted that he was a casual labourer in the petitioner's office and the question of appointment as Peon does not arise. In paragraph 4 of the counter statement, the dates during which the second respondent was engaged, has been mentioned and it is stated that it is false to contend that the second respondent was working without any break. Further, it is submitted that question of termination does not arise and it is a temporary engagement on need basis.

5. Before the Labour Court, the petitioner management examined one witness, namely M.W.1 and the second respondent examined himself as W.W.1 and documents were marked on either side.

6. The Labour Court framed two points for consideration, whether the action of management, terminating the service of the workman is legal and justified and to what relief, the workman is entitled to.

7. The Labour Court, by the impugned award, directed that the second respondent should be reinstated in service forthwith with continuity of service, attendant benefits, but without backwages. This Award is impugned in this Writ Petition.

8. After hearing the learned counsel for the parties and perusing the materials on record including the documents which are placed by the management before the Labour Court, it is seen that the award is a non-speaking order and discussion by the Labour Court in the impugned award is only the last ten lines in paragraph NO.11.

9. The Labour Court has made a sweeping statement that the second respondent has proved that he has worked continuously for

more than 240 days in a calendar year. The averments in the counter statement filed by the petitioner before the Labour Court shows that his engagement was for a short spells and there were breaks. The Labour Court did not make any endeavour to ascertain as to the number of days continuously the second respondent has worked in a calendar year. Therefore, the sweeping statement by the Labour Court remains unsubstantiated and devoid of basis. Thus, the Labour Court misdirected itself at the very inception, since it did not frame proper questions for consideration. If the Labour Court had endeavoured to give its attention to the matter and frame proper points for consideration, it would have averted the erroneous award like in the instant case. Thus, the impugned award, being devoid of reasons and having not addressed the issues which ought to have addressed, calls for interference.

10. Accordingly, the Writ Petition is allowed and the impugned award is set aside and the matter is remanded to the first respondent/Central Government Industrial Tribunal-cum-Labour Court, Chennai for fresh consideration in accordance with law. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Presiding Officer
Central Govt.Industrial Tribunal-cum-Labour Court
1st floor, Block NO.6, Shastri Bhavan
26, Haddows Road
Chennai 6.

+lcc to Mr.G.Nagarajan, Advocate, S.R.No.7308
+lcc to Mr.Balan Haridas, Advocate, S.R.No.7169

W.P.No.17419 of 2011

rsk(CO)
srg(11/02/2016)