

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28326 of 2010

The Managing Director
Kancheepuram - Tiruvallur District
Co-Operative Milk Producers Union Ltd.,
Aynavaran, Chennai 600 023.

.. Petitioner
Vs

1.A.Baskaran

2.The Presiding Officer
II Additional Labour Court
Chennai 600 001.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records relating to I.D.No.625 of 2005 on the file of the II Additional Labour Court, Chennai and quash and set aside the award dated 23.09.2010, in so far as it awarded reinstatement with backwages and with continuity of service and decision to refund of Rs.10,000/- to the first respondent's wife.

For Petitioners : Mr.R.Madanagopaal

For Respondents : Mr.S.Ravi - R1

Court - R2

O R D E R

Heard Mr.R.Madanagopaal, learned counsel appearing for the petitioners and Mr.S.Ravi, learned counsel appearing for the first respondent and with the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.In this Writ Petition, the Management has challenged the Award of the II Additional Labour Court, Chennai in I.D.No.625 of 2005, dated 23.09.2010, in so far as it awarded reinstatement of the first respondent/workman with continuity of service and to refund of the amount of Rs.10,000/-, which

was recovered,

3. When the matter came up for hearing on 23.03.2016, this Court suggested the learned counsels on either side that they can consider settling the matter by reinstatement of the workman with continuity of service and the workman to forgo the portion of the wages from December 2010 and not to insist upon refund of Rs.10,000/-, which was collected from him.

4. The learned counsels for the petitioner as well as the first respondent have discussed the matter with their clients and the matter has been settled and a joint memo has been filed by the petitioner as well as the first respondent. The contents of the Joint Memo is reproduced hereunder:

JOINT MEMO FILED BY THE PETITIONER AND THE RESPONDENT

The petitioner and the first respondent hereby prays that orders may be passed in terms of the following settlement arrived at between the parties:

1. The petitioner as per orders of this Court dated 23.03.2016, considered the reinstatement of the workman with continuity of service and that the worker would forgo the wages as and by way of settlement without prejudice to rival contentions of the parties.

2. In view of the settlement arrived it is prayed that this Hon'ble Court may be pleased to set aside the award dated 23.09.2010 and may be pleased to pass an order as follows:

(a) that the first respondent would be reinstated with continuity of service without backwages except last drawn salary paid from December 2010 as per section 17-B of the Industrial Dispute Act, 1947.

(b) that the first respondent would forgo the back wages from the date of termination.

(c) that the first respondent would not insist for refund of Rs.10,000/- as ordered by the Hon'ble Labour Court.

(d) In view of the aforesaid settlement arrived, the workman agrees to withdraw C.P.No.10 of 2011, pending before the Hon'ble II Additional Labour Court, Chennai, as not pressed.

(e) the parties mutually agree to record the settlement and render justice."

parties, the impugned Award is set aside and the first respondent shall be reinstated with continuity of service without back wages except the last drawn salary paid from December 2010 in terms of Section 17-B of the I.D. Act and the first respondent will forgo back wages from the date of termination first respondent would not insist upon refund of Rs.10,000/- which was recovered by the Management, making it clear that there would be no further recovery from the first respondent and has undertaken the first respondent shall withdraw C.P.No.10 of 2011, pending on the file of II Additional Labour Court, Chennai.

6. It is submitted that because of the Election Code of Conduct being in force, the petitioner/Management will implement the above settlement and reinstate the first respondent workman with continuity of service without back wages, after the elections are over.

7. Accordingly, the petitioner/Management is directed to reinstate the first respondent with continuity of service, without back wages on or before 10.06.2016.

The Writ Petition is allowed on the above terms. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rpa

To

The Presiding Officer
II Additional Labour Court
Chennai 600 001.

+1cc to Mr.R. Madanagopaal, Advocate, S.R.No.24883
+1cc to Mr.S. Ravi, Advocate, S.R.No.24679

SKS (CO)
EU(29/04/2016)

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