

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2017

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THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.6776 of 2012
and
M.P.No.1 of 2012 & 2 of 2014

The Management of
M/s.Priyadarshini Engineering College,
rep. by its Administrator

.. Petitioner

versus

1. K.S.Ramachandra Rao
2. The Presiding Officer,
Principal Labour Court,
Vellore District, Vellore.

.. Respondents

Prayer: Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of Certiorari, to call for the records relating to I.D.No.70 of 2008 on the file of the 2nd respondent and quash the award dated 17.08.2011 made in therein.

For Petitioner : Mr. P.Ranganatha Reddy
M/s.King and Patridge

For Respondents : Mr.S.T.Vararajulu for R1

सत्यमेव जयते

ORDER

This Writ Petition is against the award of the Labour Court/second respondent herein, dated 17.8.2011 in I.D.No.70 of 2008, in and by which, the Labour Court had awarded a compensation of Rs.2 lakhs to the first respondent/workman in lieu of reinstatement. Aggrieved by the award, the petitioner/management is before this Court.

2. The facts which necessitated the filing of the writ petition, are stated as under:

The first respondent/workman had joined the petitioner/management as Labourer on 1.8.1995 and he was terminated from service on 17.2.2005 based on the disciplinary action initiated against him. While working as labourer, he was issued with a charge memorandum on 11.10.2004 for certain acts of misconduct. A domestic enquiry was ordered into the charges. The report of the domestic enquiry, it was held that out of three charges, two charges were proved against the first respondent/workman. Based on the findings, further action was initiated and he was ultimately dismissed from service.

3. Aggrieved by the order of dismissal from service, the first respondent/workman, raised a dispute which ultimately came before the first respondent/Labour Court for consideration. The second respondent/Labour Court, by preliminary order, held that the enquiry was not conducted fair and proper and therefore, allowed the management to let in evidence to establish the charges framed against the first respondent/workman. The petitioner/management had examined one witness and marked two documents. On behalf of the workman, he examined himself and marked two documents.

4. After considering the nature of evidence let in before it, the second respondent/Labour Court found eventually that all the charges were not proved due to insufficiency of the evidence. After holding that the charges were not proved, the Labour Court had proceeded to conclude as to what relief has to be granted to the first respondent/workman.

5. On behalf of the management, it was submitted that the relationship between the petitioner/management and the first respondent/workman was strained and therefore, the order of reinstatement could not be in the interest of both parties concerned. Several contentions were raised before the second respondent/Labour Court in support of their respective contentions.

6. Having considered the submissions of both the management and the workman, the Labour Court, finally held that a total compensation of Rs.2 lakhs was payable to the first respondent/workman in lieu of reinstatement and other benefits. The said award is put to challenge by the management in this writ petition.

7. Shri Ranganatha Reddy, learned counsel appearing for the

petitioner management would contend that there is contradiction in the findings of the Labour Court as sufficient evidence was made available on behalf of the management in support of the charges. However, the Labour Court had overlooked crucial piece of evidence in favour of the management. According to him, the ultimate findings of the Labour Court holding that all the charges were not proved, cannot be sustained factually or legally.

8. Upon notice, Shri S.T.Varadarajulu, learned counsel entered appearance for the first respondent/workman and made his submissions. According to him, after due appreciation of the evidence let in before it, the Labour Court has rightly concluded that the charges were not proved. Such finding of fact, cannot be interfered with unless the same is shown to be perverse. According to him, the findings of the Labour Court cannot be held to be perverse, even remotely. Although, there may be some minor insignificant contradictions, but the same cannot be the basis for holding the entire findings as perverse and invalid.

9. There appears to be some force in the contentions put forth on behalf of the first respondent/workman that the Labour Court had given a definite finding in favour of the workman on the basis of the evidence let in before it and also in the absence of crucial evidence against the first respondent/workman. As rightly contended by the learned counsel for the first respondent, unless the finding of the Labour Court is held to be perverse, this Court cannot re-appreciate the evidence let in before the Labour Court while exercising its review jurisdiction under Article 226 of the Constitution of India. From the records, it can be seen that there is considerable basis for conclusion of the Labour Court in favour of the first respondent/workman. Moreover, the Labour Court while passing the award, had also rightly taken into consideration the strained relationship between the petitioner/management and the first respondent/workman and therefore, rightly awarded a lumpsum payment of Rs.2 lakhs in lieu of reinstatement.

10. In the considered view of this Court, such award passed by the Labour Court does not require any interference from this Court since the Labour Court has taken a pragmatic approach in finding a resolution to the dispute between the management and the workman. In all, the eventual award passed by the Labour Court is to be held valid in the eye of law. Therefore, this Court is of the view that there is no infirmity in the award.

In such circumstances, the Writ Petition lacks merits and substance and liable to be dismissed.

11. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected MPs are closed.

12. It is represented that the award amount of Rs.2 lakhs has been deposited to the credit of I.D.70 of 2008 and the same is lying in a fixed deposit. Since the Writ Petition filed by the petitioner/management is dismissed, the first respondent/workman is permitted to withdraw the amount lying in the credit of I.D. 70 of 2008, by moving an appropriate application before the Labour Court.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

suk

To

The Presiding Officer,
Principal Labour Court,
Vellore District, Vellore.

+1cc to Mr.S.T.Vararajulu, Advocate, S.R.No.81579

+1cc to M/s.King and Patridge, Advocate, S.R.No.81409

W.P.No.6776 of 2012

CNR (CO)
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