

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.A.No.2760 of 2010

The Management of NCC Directorate
Canteen (TN P & A)
Fort St.George
Chennai 600 009

... Appellant/2nd Respondent

-vs-

1. S.J.Ramesh

2. The Presiding Officer
Central Government Industrial Tribunal
cum Labour Court
Shastri Bhavan, Haddows Road
Chennai 600 006

.. Respondents/Writ
Petitioner 1st Respondent

Appeal under Clause 15 of the Letters Patent, against the order dated 16.09.2009 made in W.P.No.1624 of 2003.

W.P.No.1624 of 2003:- Writ Petition filed under Article 226 of the Constitution of India. Praying for the issue of a writ of certiorari calling for the records from the file of the 1st respondent in I.D.NO.10 OF 2002 and quash its impugned award dated 13.09.2002 in so far as the 1st respondent has negatived the claim of the petitioner for reinstatement in service with continuity of service with back wages and with all other attendant benefits

For Appellant :: Mr.T.Ravikumar

For Respondents :: Mr.K.M.Ramesh for R1
R2-Court

JUDGMENT

(Judgment of the Court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel for the appellant and the learned counsel representing the first respondent.

2. It appears that the first respondent was dismissed/terminated from service after an enquiry, while working as a casual labourer in the canteen run by the appellant, and thereafter it was found that the first respondent was gainfully employed. However, in the writ petition filed by the first respondent challenging the award passed by the second respondent-Central Government Industrial Tribunal cum Labour Court refusing to interfere with the order of termination, the learned single Judge, considering the inconsistent stands taken by the appellant/management as to the employment status of the first respondent and also for not following the mandatory provisions of Section 25-F of the Industrial Disputes Act, set aside the award and directed the appellant/management to reinstate the first respondent in service with full back wages and all consequential benefits. As against the said order, the appellant is before us with this appeal.

3. Having heard the learned counsel for the parties, though according to the appellant the employment of the first respondent was casual in nature, we are of the view that as per the order of the learned single Judge, the services of the first respondent/workman have been extended from time to time and after a period of 4 ½ years, he has been terminated from service. Moreover, on the ground that the first respondent was gainfully employed, he has not been paid even the wages under Section 17-B of the Industrial Disputes Act. Finally, after the order of the learned single Judge directing reinstatement with full back wages, there is a bargain between the management and the workman as to the payment of backwages on the principle of 'no work-no pay'. Considering the period of service rendered by the first respondent, instead of passing an order of termination for having remained unauthorisedly absent for one or two months, some other order could have been passed. Now the first respondent is shown to have 10 years of service remaining. In these circumstances, to put an end to the litigation, we direct the appellant/management to pay a sum of Rs.3,00,000/- to the first respondent towards full final settlement within a period of three months from the date of receipt of a copy of this order, in lieu of the reinstatement with full backwages. The writ appeal stands disposed of accordingly. Consequently, M.P.No.1 of 2010 is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ss

To

1. The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Shastri Bhavan, Haddows Road,
Chennai 600 006,

+lcc to Mr.T.Ravikumar, Advocate, S.R.No.48526

+lcc to Mr.K.M.Ramesh, Advocate, S.R.No.48506

W.A.No.2760 of 2010

SR(CO)
CS/09/08/17



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