

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1028 of 2014 & MP No.1 of 2014
and CMP Nos.11200 & 11201 of 2017

The Management
Christian Medical College and Hospital
IDA Scudder Road,
Vellore 632 004.

... Appellant/Petitioner

versus

1. D.Jeevanesan
2. The Presiding Officer,
Labour Court,
Vellore.

... Respondents/Respondents

Appeal filed against the order passed by this Court dated
25.04.2014 passed in W.P.No. 46404 of 2002.

WP.NO.46404/2002:

Writ Petition filed Under Article 226 of Constitution of
India praying for Issuance of a Writ of Certiorarified mandamus
to call for the records connected with award dated 07/10/2002
made in I.D.NO.1133 of 1993, on the file of the Second
respondent Labour Court and quash the same.

For Appellant : Mr.Shivathanu Mohan
for M/s. S.Ramasubramaniam and Associates

For 1st Respondent: Mr.S.T.Varadarajulu

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

This intra Court Appeal is at the instance of the Management
challenging the order of dismissal in the Writ Petition in WP
No.46404 of 2002, in and by which, the learned Single Judge had

confirmed the award passed by the Labour Court, Vellore, directing reinstatement of the respondent with continuity of service and other benefits except back wages.

2. The appellant had by an order dated 26.08.1992 dismissed the respondent, who was employed as Attender Grade-II in the Hospital for certain delinquencies. The delinquencies included non-delivery of the slides, which were directed to be handed over to the Clinical Pathology Department on three occasions, negligent handling of the confidential cover containing draft question paper addressed to Dr.C.J.G.Chakco and assaulting one Mr.Keerthiseelan, a cycle stand keeper with the help of his brother, parents and sister. The employee raised an Industrial Dispute challenging the removal from service and the same was numbered as ID No.1133 of 1993.

3. The Labour Court allowed the ID and directed reinstatement of the respondent. The Labour Court has held that the Management had not followed up the delivery of the slides on time and therefore, the respondent workman cannot be solely held responsible. As regards the assault of the Cycle Stand Keeper, the Labour Court had concluded that inasmuch as the Cycle Stand Keeper was not an employee of the Institution and was rank outsider, the order of removal from service is not justified. The said award came to be confirmed by the learned Single Judge in WP No.46404 of 2002 for the very same reasons assigned by the Labour Court.

4. We have heard Mr.Shivathanu Mohan, learned counsel appearing for M/s. S.Ramasubramaniam and Associates, for the appellant Management and Mr.S.T.Varadharajulu, learned counsel appearing for the respondent workman.

5. Upon hearing of Mr.Shivathanu Mohan, learned counsel appearing for the Management and Mr.S.T.Varadharajulu, learned counsel appearing for the respondent workman, we had indicated that we are unable to agree with the conclusions of the Labour Court and that of the learned Single Judge. Mr.S.T.Varadharajulu, learned counsel appearing for the respondent workman, agreed to give up his claim for reinstatement if the management pays a lump sum compensation. The Management has also graciously come forward to pay a sum of Rs.3,00,000/- in full quits of all claims of the respondent workman.

6. On the basis of the aforesaid agreement reached by the parties represented by their respective counsels, we pass the following order.

7. This Intra Court Appeal will stand allowed the orders of the Labour Court and the learned Single Judge will stand set aside and the respondent's removal from service by an order dated 26.08.1992 will stand confirmed.

8. The appellant Management shall pay a sum of Rs.3,00,000/- to the respondent workman, within a period of two (2) weeks from the date of receipt of a copy of this Order. The intra Court Appeal is disposed of as above. However, in the circumstances without costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court,
Vellore.

+1cc to Mr.S.T.Varadarajulu, Advocate sr.no.47188
+1cc to M/s. S.Ramasubramaniam and Associates,
Advocate sr.no.46803

W.A.No.1028 of 2014 & MP No.1 of 2014
and CMP Nos.11200 & 11201 of 2017

gj(co)
nr 06/08/2018

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