

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2018

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.814 of 2006

And

W.P.M.P.No.931 of 2006

General Manager
Chennai Telephones
78, Purasawakkam High Road,
Chennai.

... Petitioner

Vs.

1.Central Government Industrial Tribunal cum Labour Court,
Sastri Bhavan, Chennai 6.

2.M.Krishnamurthy

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the order passed by the 1st respondent Central Government Industrial Tribunal cum Labour Court, Chennai made in I.D 308 of 2004 dated 23.11.2004 and quash the same.

For Petitioner : Mr.T.Ravi Kumar

For Respondents : R1 - Court

Mr.R.Renga Ramanujam for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records relating to the order passed by the first respondent Central Government Industrial Tribunal cum Labour Court, Chennai made in I.D 308 of 2004 dated 23.11.2004 and to quash the same.

2.The case of the petitioner is that the second respondent was working as a token clerk in the Madras Telephone Staff Canteen, 39, Rajaji Salai, Chennai - 1, which is an independent canteen committee run on no loss no gain basis. Whiles, the second respondent alleged that he served continuously from 29.08.1990 to 31.12.1997 and thereafter was transferred to the office of the Deputy General Manager (North West) at Vepery and served there from 01.01.1998 to July, 2000 as Class IV employee

under the control of Accounts Officer (TR). Hence, the second respondent requested the petitioner to regularize his service, but the petitioner orally terminated his service and thereafter, he was not employed. Hence, the second respondent alleged that there was a gross violation of Section 25 F of the Industrial Disputes Act. Accordingly, the second respondent raised Industrial Dispute before the Labour Court. The Labour Court passed the award in favour of the second respondent and directed the petitioner to reinstate the second respondent in service with backwages, continuity of service and other attendant benefits. Aggrieved by the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner Management is governed by the statutory Rules, wherein, the statutory Rules imposed a condition to recruit employees only through Employment Exchange and after satisfaction of the minimum qualification in respect of Class IV employees and the petitioner Management did not authorise to run the canteen. The canteen was not run by the Department. The staff credit themselves and ran the canteen and the canteen has nothing to do with the Management. The second respondent did not produce any material to show that he has worked under the Management except the temporary identity card and entry pass issued by the Accounts Officer. Further, the Accounts Officer was not arrayed as a party in the Industrial Dispute. However, without considering all these aspects, the Labour Court passed an award in favour of the second respondent, which is un-sustainable.

4.The learned counsel appearing for the second respondent submitted that the second respondent in order to establish that he worked under the petitioner has marked exhibits Ex.W1 to Ex.W8 before the Labour Court and also examined himself as W.W.1. There are sufficient materials to show that the second respondent has worked for 240 days without any break. Further, on the side of the petitioner Management, one D.Kalaivani, who is the Accounts Officer was examined and after elaborate discussion, the Labour Court passed the award in favour of the second respondent.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.Perusal of the records discloses that M.W.1 in her deposition has admitted that the canteen was run with the permission of the Deputy General Manager. The records also disclose that the canteen was not run by the petitioner, but by the employees of the petitioner Department. It is also known that at present the canteen is not run by anybody and the same is closed.

7.The petitioner Management cannot reinstate the second respondent as a Class IV employee as the petitioner has been converted into Corporation, an independent body. At present, the canteen is not run by anybody and the same is closed. Hence there is no possibility of reinstating the petitioner. Accordingly, since the second respondent could not be reinstated into service, to meet the ends of justice and after hearing the views of the learned counsel appearing on either side, this Court directs the petitioner Management to pay a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) as compensation as full and final settlement to the second respondent.

8.The order of the Central Government Industrial Tribunal cum Labour Court, Chennai, made in I.D 308 of 2004 dated 23.11.2004 is set aside to the extent as indicated above. The petitioner Management is directed to pay a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) as compensation as full and final settlement to the second respondent, within a period of twenty four weeks from the date of receipt of a copy of this order.

9.The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Central Government Industrial Tribunal cum Labour Court,
Sastri Bhavan, Chennai - 600 006.

+2ccs to Mr.T.Ravikumar, Advocate, S.R.No.43406.

W.P.No.814 of 2006

And

W.P.M.P.No.931 of 2006

SSV(CO)
BM 20/07/2018.