

In the High Court of Judicature at Madras

Dated: 04.04.2018

Coram

The Honourable Mr.JUSTICE K.K.SASIDHARAN
and
The Honourable Mr.JUSTICE R.SUBRAMANIAN

Writ Appeal No.1466 of 2016
and C.M.P.No.18273 of 2016

The Management
Tamil Nadu Water Supply and Drainage Board
Urban Division,
Kanaka Apartment,
Lady Dock College Road,
Madurai - 2. Appellant/Petitioner

Vs.

1. R.Mallukkan
2. The Management,
Commissioner,
Dindigul Municipality Office,
Dindigul District.
3. The Presiding Officer,
Labour Court,
Thiruchirappalli
(Dindigul Camp) ... Respondents

APPEAL filed under Clause 15 of the Letters Patent against the order dated 17.02.2016 made in W.P.No.19350 of 2004 on the file of this Court.

W.P.No.19350 of 2004 :-

Writ petition has been filed seeking for a writ of certiorari to call for the records in the impugned award dated 23.12.2003 made in ID.No.83 of 1995 on the file of the third respondent (ID.No.130 of 1992) Labour Court, Madurai and quash the same.

For Appellant : Mr.R.Ganesh Babu

For Respondents : Mr.Ajay Khose - R1
Mr.P.Srinivas - R2

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN,J)

This intra Court appeal is directed against the order dated 17.02.2016 in W.P.No.19350 of 2004, whereby and whereunder the learned single Judge by following the judgment of the Division Bench dated 23.12.2010 in W.A.(MD)Nos.726 to 743 of 2007 confirmed the award passed by the Labour Court with a modification that the respondent is entitled to backwages at 50% in modification of the award directing reinstatement with full backwages. The said order is under challenge at the instance of the Tamil Nadu Water Supply and Drainage Board.

2. We have perused the documents available on record including judgment dated 23.12.2010 in W.A.(MD)Nos.726 to 743 of 2007. It is found that similar awards were challenged before the Writ Court by the Management on the ground that retrenchment was justified on the facts and circumstances of the case. The learned single Judge confirmed the award and dismissed the Writ Petitions. When the orders passed by the learned single Judge were taken up in appeal, the Division Bench modified the direction with regard to backwages, but confirmed the award with respect to reinstatement. We are informed that the said judgments has already been complied with by the appellant by issuing proceedings dated 04.08.2011.

3. Learned single Judge after perusing the award passed by the Labour Court found that the matter is covered by judgment dated 23.12.2010 passed in W.A.(MD)Nos.726 to 743 of 2007.

4. Learned counsel for the appellant is not in a position to produce any material to suggest that the case of the respondent is different and the earlier judgment could not be applied to this case. The very same contention was taken before the Division Bench in W.A.(MD)Nos.726 to 743 of 2007. The Division Bench found on facts that the Labour Court was correct in directing the appellant to reinstate the concerned employees. However the Division Bench modified the payment of backwages to 50%. The first respondent is similarly placed. The learned single Judge was perfectly correct in extending the benefit to the first respondent. There is absolutely no merit in the contention taken by the appellant.

5. The intra court appeal is dismissed. The appellant is

directed to comply with the order dated 17.02.2016 made in W.P.No.19350 of 2004 passed by the learned single Judge within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, C.M.P.No.18273 of 2016 is also dismissed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Management,
Commissioner,
Dindigul Municipality Office,
Dindigul District.
2. The Presiding Officer,
Labour Court,
Thiruchirappalli
(Dindigul Camp)

+1cc to Mr.R.Ganesh Babu, Advocate, S.R.No.24895
+1cc to Mr.Ajay Khose, Advocate, S.R.No.24833
+1cc to Mr.P.Srinivas, Advocate, S.R.No.25574

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and C.M.P.No.18273 of 2016

RSK(CO)
CS/18/04/18

सत्यमेव जयते

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