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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.531 of 2016

and

W.M.P.(MD)No.439 of 2016

The Sericulture Department,
Palani Road, Dindigul,
Represented by its
Assistant Director,

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Tiruchirappali.

2. Late.Murugan

3. Latha

4. Ramkumar

5. Sushma

...Respondents

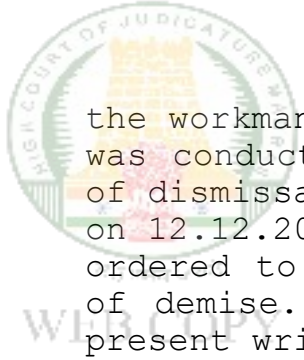
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Ceriorari, to call for the records relating to the impugned award dated 20.11.2014 passed the first respondent in I.D.No.162 of 2000 and quash the same as illegal.

For Petitioner	: Mrs.S.Srimathy Special Government Pleader
For R-3 to R-5	: Mr.G.M.Xavier
For R-1	: Labour Court

ORDER

Heard the learned counsel on either side.

2.One Murugan, the second respondent herein was employed in the Sericulture Department. He joined service on 28.04.1993. Originally he was terminated from service on 07.07.1995. Questioning the same, he raised ID No.454 of 1995 before the labour Court, wherein a direction was issued for reinstatement of the said Murugan with continuity of service. But back wages were denied. Again, he was terminated from service by order dated 31.01.2000. Challenging the same, he raised I.D.No.162 of 2000 before the labour Court, Tiruchirapalli at Dindigul camp. The labour Court rightly noted that



the workman was not given notice prior to termination and no enquiry was conducted. Since due process of law was not adopted, the order of dismissal, dated 31.01.2000 was set aside. Since the workman died on 12.12.2010, reinstatement was not ordered. But the department was ordered to give backwages from the date of dismissal till the date of demise. Challenge the said claim, the Government preferred the present writ petition.

3.The fact that the deceased workman was removed from service without following due process of law is not disputed. Therefore, this Court is of the view that the labour Court has rightly set aside the dismissal. This Court however, wants to interfere with the order, to a limited extent. The workman was already removed from service and thereafter, reinstated without backwages. Normally when due procedure is not followed while removing an employee from service, the Management is permitted to adduce evidence in support of the charges against the workman. But in this case, due to his demise, the proceedings could not be taken to their logical conclusion. The management was denied the opportunity to prove the charges against the workman. Hence, in the interest of justice, the following modifications are made:

(i)the award of the labour Court holding that the order dated 31.01.2000, dismissing the said Murugan from service is illegal is sustained;

(ii)the direction to notional reinstate with continuity of service till 12.12.2010 is also sustained.

4.The only question is whether the benefit of back wages will have to be disbursed to the legal heirs of the deceased.

5. This Court is of the view that in this case the principle of natural justice has not been followed. However, it is made clear that the deceased workman would be deemed to have been in service from 28.04.1993 upto 12.12.2010. All other service benefits payable on that account shall be paid to the Legal Heirs of the workman. It is made clear that the direction to pay backwages for a period from 31.01.2001 to 01.10.2010 alone is set aside.

6.The Writ Petition is partly allowed accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

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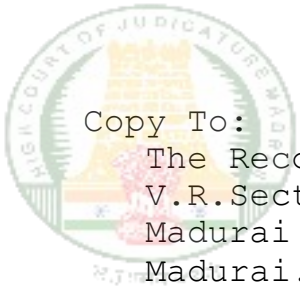
Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,
Tiruchirappalli.

<https://hcservices.ecourts.gov.in/hcservices/>

+1CC to the Special Government Pleader SR.No. 58929



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