

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No. 7311 of 2002
and W.M.P.Nos.788 and 33511 of 2002

The Sr. Divisional Personnel Officer,
Southern Railway, Trichirapalli 620 001.

..Petitioner

-Vs-

1. M.Rajaram
2. The Industrial Tribunal,
Tamil Nadu, Shasthri Bhawan,
Chennai - 36.

..Respondents

PRAYER: Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records relating to the impugned award dated 01.07.1998 in Industrial Dispute No.5/1993 on the file of the second respondent herein, quash the same as illegal.

For Petitioner : Mr.V.Radhakrishnan, Senior Counsel
for Mr.P.T.Ramkumar

For Respondents : Mr.R.Dhinesh Kumar, for R1
R2- Tribunal

O R D E R

The challenge in the Writ Petition is to the award dated 01.07.1998, whereby, the first respondent herein was directed to be reinstated with 50% backwages on the ground that the petitioner herein had not followed the mandatory provisions of Section 25 of the Industrial Disputes Act.

2. When the matter was called for final disposal, it was realised that the first respondent had already attended the age of superannuation and therefore, this Court had suggested to Mr.V.Radhakrishnan, the learned Senior Counsel for the petitioner to explore the possibility as to whether the first respondent could be compensated with one time lump sum settlement.

3. The learned Senior Counsel for the petitioner relying upon on various decisions of the Supreme Court, viz., i) 2014 7 SCC 177 (Bharat Sanchar Nigam Ltd. vs. Bhurumal), ii) 2013 5 SCC 136 (Assistant Engineer, Rajasthan Development Corporation and another vs. Gitam Singh), iii) 2012 1 SCC 558 (Bharat Sanchar Nigam Ltd. Man Singh and others). iv) 2010 6 SCC 773 (Senior Superintendent Telegraph (Traffic), Bhopal vs. Santosh Kumar Seal and others), v) 2010 9 SCC 126 (Incharge Officer and another vs. Shankar Shetty) and vi) 2009 15 SCC 327 (Jagbir Singh vs. Haryana State Agriculture Marketing Board and another), submitted that in identical circumstances, the Apex Court had taken a view that a one time settlement, in cases of termination, can be granted instead of reinstatement. Hence, he offered a sum of Rs.3,00,000/- towards full and final settlement of the entire terminal benefits.

4. On perusal of the judgments of the Apex Court, it is seen that in some of the cases, the Supreme Court has awarded compensation of a lesser amount than that of which is being offered before this Court. As such, this Court is of the view that the sum of Rs.3,00,000/- offered could be a just and reasonable compensation, by applying the ratio laid down by the Apex Court in the aforesaid judgments.

5. In the light of the observations made and relying upon the ratio laid down by the Apex Court, it can only be held that the reinstatement cannot be automatic while setting aside the termination order and as such, the first respondent could be compensated monetarily. Consequently, the impugned order passed by the second respondent in Industrial Dispute No.5/1993 dated 01.07.1998, is set aside and the petitioner is directed to pay a sum of Rs.3,00,000/- (Rupees three lakhs only) to the first respondent herein, viz., Mr.M.Rajaram, within a period of one month from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

pvs

To

1.The Industrial Tribunal,
Tamil Nadu, Shasthri Bhawan,
Chennai - 36.

2.The Senior Divisional Personnel Officer,
Southern Railway, Trichirapalli 620 001.

+1 cc to Mr.P.T.Ramkumar, Advocate, S.R.No.16780

+1 cc to Mr.R.Dhinesh Kumar, Advocate, S.R.No.17472

W.P.No.7311 of 2002

SSD(CO)
SSM(09/04/2019).



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