

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.25500 of 2003
and
WP.MP.No.31316 of 2003

The Management of Lotus
Roofings (Pvt.) Ltd.,
Rep. by its Works Manager,
PIPDIC Industrial Estate,
Sedarapet,
Pondicherry.Petitioner

Vs

1. The Presiding Officer,
Labour Court and
II Additional District Judge,
Pondicherry.

2. A.R.ArumugamRespondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India to pass an order of Writ of Certiorari,
calling for the records of the 1st respondent culminating in his
Award dated 14.02.2003 and passed in I.D.No.18 of 1992.

For Petitioner : Mr.P.N.Radhakrishnan

For Respondents: R1 - Court

Mr.S.Ayyathurai
for R2

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O R D E R

The present writ petition has been filed challenging the
Award of the Labour Court dated 14.02.2003, passed in I.D.No.18
of 1992, whereby, the 2nd respondent was directed to be
reinstated into the services together with 1/4th of the last
drawn wages with effect from 17.06.1991 till the end of December
2001.

2. It is seen that the 2nd respondent herein had joined with the Management as an Apprentice Clerk in the year 1988. The Award of the Labour Court came to be passed in the year 2003 directing reinstatement. The backwages were restricted only till the year 2001, since the 2nd respondent was gainfully employed during the rest of the period. After lapse of so many years, it would not be appropriate for directing reinstatement of the 2nd respondent, who is either at the verge of retirement or has already retired from the services.

3. The Hon'ble Apex Court in its decision reported in 2014 (7) SCC 177 in the case of Bharat Sanchar Nigam Limited vs Bhurumal has held that in all cases of termination, reinstatement will not be automatic and instead a compensation can be awarded in such cases. The present case is one example, where the reinstatement may not proper, by considering his age as well as the proposition held by the Hon'ble Apex Court that the reinstatement will not be automatic in all cases of termination.

4. It is brought to the notice of this Court that the backwages ordered by the Labour Court works out around Rs.28,500/-. Incase, a sum of Rs.50,000/- is directed to be paid as compensation in lieu of backwages ordered, the ends of justice would be met.

5. In the light of the above observations, the Award dated 14.02.2003 passed in I.D.No.18 of 1992, is modified, insofar as the payment of 1/4th of the backwages for the period 17.06.1991 to December 2001 is concerned and consequently, the petitioner herein is directed to pay a sum of Rs.50,000/- as a lump sum compensation for the backwages. Such an exercise of payment shall be made within a period of 4 weeks from the date of receipt of copy of this order. In view of the payment of the backwages, the 2nd respondent herein shall not be entitled for reinstatement.

6. With the above observations, the writ petition stands disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

hvk

To

The Presiding Officer,
Labour Court and
II Additional District Judge,
Pondicherry.

+lcc to Mr.S.Ayyathurai, Advocate, S.R.No.29502

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RJI (CO)
GN(06/05/2019)



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