

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.22304 of 2013

Pencillaiah

... Petitioner

vs.

1. The Corporation of Chennai,
rep. By its Commissioner,
Ripon Building,
Chennai 600 003.

2. The Presiding Officer,
II Additional Labour Court,
High Court Buildings,
Chennai 600 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of Certiorarified mandamus, calling for the records of the 2nd Respondent passed in I.D.No.211/2017 dated 28.11.2012 and quash the same and consequently direct the Respondent to reinstate with backwages from the date of Petition.

For Petitioner : Ms.N.Beulah John Selvaraj

For 1st Respondent : Mr.S.Saravanan

ORDER

Petitioner has come up with this Writ Petition challenging the Award dated 28.11.2012 passed by the Labour Court in I.D.No.211 of 2017, wherein, the Labour Court, instead of ordering reinstatement of the Petitioner into service with all attendant benefits, granted a sum of Rs.50,000/- as compensation.

2. This Court heard the learned counsel for the Petitioner/employee and the learned counsel appearing for the 1st Respondent/Corporation and carefully gone through the material documents available on record.

3. It is seen that the Petitioner was employed as a Sweeper in the Respondent/Corporation and he was terminated from service by an order dated 10.08.1993 on the ground that he was

absent from duty from 21.06.1990 to 25.04.1991 without obtaining prior sanction from the Respondents for the leave. Though the fact of dismissal from service for the unauthorized absence for the said period appears to be severe and disproportionate, the Petitioner has slept over the matter and raised the industrial dispute in the year 2007, i.e. after a period of 14 years.

4. The Labour Court, taking note of the pathetic condition of the Petitioner, ordered compensation of a sum of Rs.50,000/- payable to the Petitioner by the 1st Respondent/Corporation, by observing that he is not entitled to get the relief of reinstatement into service.

5. This Court finds that there is no perversity in the Award of the Labour Court, more particularly, when there is a delay of 14 years in raising the industrial dispute. Labour Court is not a gambling place for the worker to make a lottery out of the delay in raising a dispute. That is the reason why the Government thought it fit to amend the Industrial Disputes Act, 1947 to the effect that an industrial dispute should be raised within three years with regard to non-employment cases and the amendment came into effect in 2010. The delay in raising a dispute may not be applicable to other disputes falling under Section 2(k) of the Industrial Disputes Act, 1947. If reinstatement into service with backwages is ordered, it will amount to allowing the employee to capitalize on the exchequer's money without doing any work, more particularly, when there is a delay in approaching the Labour Court.

6. The Apex Court, in the case of Nedungadi Bank vs. K.P. Madhavankutty reported in (2000) 2 SCC 455 has held that delay may not be fatal in raising a dispute. However, it has held that the Labour Court has to consider the aspect of delay while granting the relief.

7. In view of the said decision, this Court does not find any perversity in the Award passed by the Labour Court. However, considering the fact that a sum Rs.50,000/- has not been paid to the Petitioner/employee and that the 1st Respondent/Corporation is willing to pay the said amount to the Petitioner, this Court directs the 1st Respondent/Corporation to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) together with interest at 6% per annum to the credit of I.D.No.211 of 2007 from the date of the Award, within a period of 15 days from the date of receipt of a copy of this order. Within 15 days from the date of receipt of the intimation, Advance Receipt shall be provided to the Petitioner/employee and 15 days from the date of Advance Receipt, the amount due shall be paid to the Petitioner/employee by means of a Demand Draft.

The Writ Petition stands dismissed with the above direction and observation. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

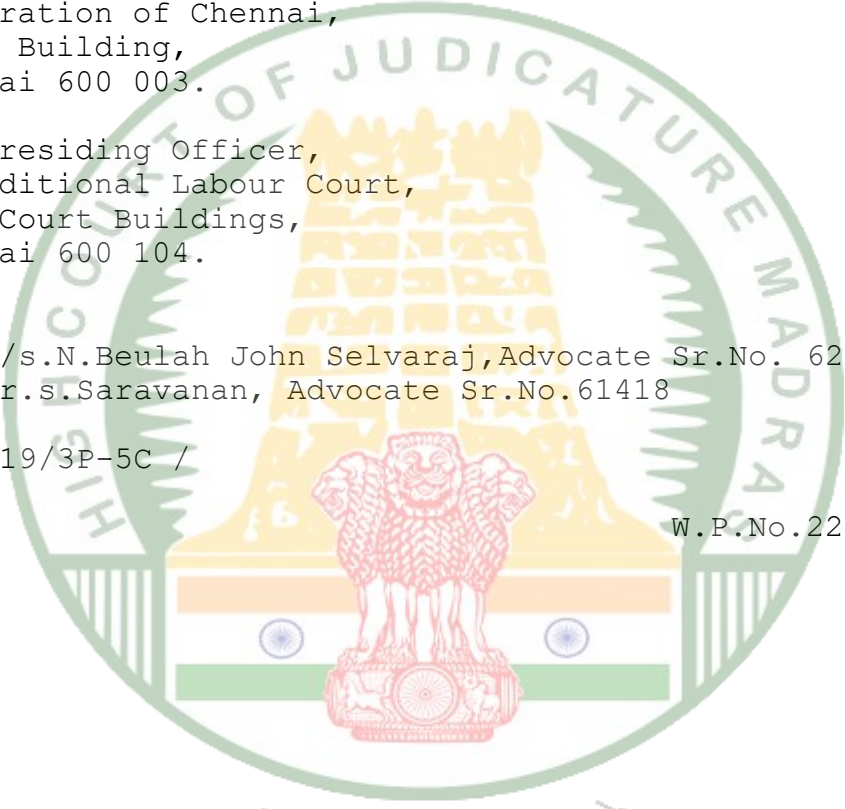
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2. The Presiding Officer,
II Additional Labour Court,
High Court Buildings,
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+1 cc to M/s.N.Beulah John Selvaraj, Advocate Sr.No. 62491

+1 cc to Mr.s.Saravanan, Advocate Sr.No.61418

AKM/13.09.19/3P-5C /

W.P.No.22304 of 2013



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