

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.09.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.6534, 6538, 7035, 8114, 8116 & 8119 of 2019
&
W.M.P.Nos.7345, 7347, 7751, 8706, 8709 & 8710 of 2019

The Management of Ambur
Co-operative Sugar Mills,
Rep by its Managing Director,
Vadapudupattu, Ambur,
Vellore District. Petitioner in all WPs

..Vs..

A.K.Shanmugam Respondent in WP.6534/19
V.Chandran Respondent in WP.6538/19
S.Arunagiri Respondent in WP.7035/19
M.K.Anbalagan Respondent in WP.8114/19
G.Murugan Respondent in WP.8116/19
A.Ramamoorthy Respondent in WP.8119/19

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the passing of the awards in I.D.Nos.38, 39, 40, 34, 37 & 36 of 2015 dated 28.12.2017 on the file of the Principal Labour Court, Vellore and quash the same.

For Petitioner : Mr.L.P.Shanmugasundaram,
(in all the cases)

For Respondent : Mr.A.Ganapatheswaran,
for Mr.S.Anbazhagan
(in all the cases)

ORDER

The awards of the Labour Court dated 28.12.2017 passed in I.D.Nos.38, 39, 40, 34, 37 & 36 of 2015 are under challenge in the present writ petitions.

2.The petitioner is the Management of Ambur Co-operative Sugar Mills. The respondents have worked as workmen in the years 1984, 1977, 1972, 1974, 1977 & 1976 respectively on daily wage basis and they were appointed as permanent employees by order dated 28.01.2011. On account of the allegation of submission of bogus educational certificate, the workmen were suspended from service on 01.08.2012 and subsequently the charge memorandum was issued and thereafter the domestic enquiry was conducted. The Enquiry Officer found that the charges against the workmen were proved and based on the proved charges, they were terminated from services of petitioner's mill on 31.10.2014. The respondent/workmen raised Industrial Disputes before the Labour Court in I.D.Nos. 38, 39, 40, 34, 37 & 36 of 2015 and Labour Court passed separate awards granting the benefit of reinstatement in NMR position. Having aggrieved, the writ petitioners are constrained to file the present writ petitions.

3.The learned counsel for the writ petitioners states that the awards of the Labour Court are perverse mainly on the ground that the charges against the delinquent workmen were established both before the Enquiry Officer as well as before the Labour Court. The Labour Court has independently considered the documents and evidences and arrived at a conclusion that the workmen have submitted bogus educational certificates. Having arrived at a conclusion that the workmen have submitted bogus certificates, the Labour Court was wrong in ordering for the reinstatement in NMR position where the charges are established. The Labour Court ought not to have shown any misplaced sympathy so as to grant the benefit of reinstatement.

4.In this regard, the learned counsel for the petitioner solicited the attention of this Court in respect of findings of the Labour Court. The Labour Court found that on analyzing the evidences of M.W.1 and M.W.2, more particularly M.W.2, who has deposed the certificate given by the workmen, Ex.M.16 was not tallied with the School registers with regard to the admission number and name of the school furnished by the workmen. Apart from that, even as per evidence of M.W.2, at the request of this Court, he has verified the certificate given by the workmen along with original register and deposed that certificate given by the workmen was not tallied with the original register. After compared with the original register, xerox copy of that portion was marked as Ex.M.31. Even, in his evidence, he has clearly clarified as to how the certificate was not tallied with original register, which reads as follows;

"The admission number in education certificate given by the workmen is 3543. But, in the concerned school admission register for that period for the admission

number 3543, some another name i.e., Bhuvaneswari, D/o.Sukumar, is placed in the school register, it is appeared that the said named Bhuvaneswari joined on 19.06.2000 in I standard and promoted as 8th standard in the year 2008. But, in Ex.M.16, ther person named in Ex.M.16, joined in 1974 and left in 1977."

5.So that, M.W.2, has reported that the certificates given by workmen were not tallied with the original register on comparing both of them. His version could not be shattered by the cross examination. So that, the Labour Court has come to a conclusion that the educational certificates submitted by the workmen appears to be bogus one.

6.On a perusal of the findings of the Labour Court, it is unambiguous that the allegation of submission of bogus certificates by the delinquent employees were established and the Labour Court also in its categorical finding said that the delinquent employees are responsible for submission of bogus certificate for securing employment in the petitioner's management. Having arrived at such a conclusion, the Labour Court finally held that the workmen are entitled for reinstatement in the NMR position, even in paragraph 19 of the award, the Labour Court stated that the charges against the workmen has been proved. Further it is held that W.W.1, himself has admitted that he has been gainfully employed during the disputed period. Under these circumstances, ordering for the reinstatement is highly unwarranted. Once, the allegation of bogus certificate is established beyond any pale of doubt, then the question of reinstatement would not arise. The Labour Court ought not to have shown any misplaced sympathy in the matter of providing reinstatement, once, the charges of bogus certificate was established.

7.Under these circumstances, the award of the Labour Court is perverse and not in consonance with the established principles of labour jurisprudence. Consequently, the order is liable to be set aside. Accordingly, the awards of the Labour Court dated 28.12.2017 passed in I.D.Nos. 38, 39, 40, 34, 37 & 36 of 2015 are quashed and the writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mrm

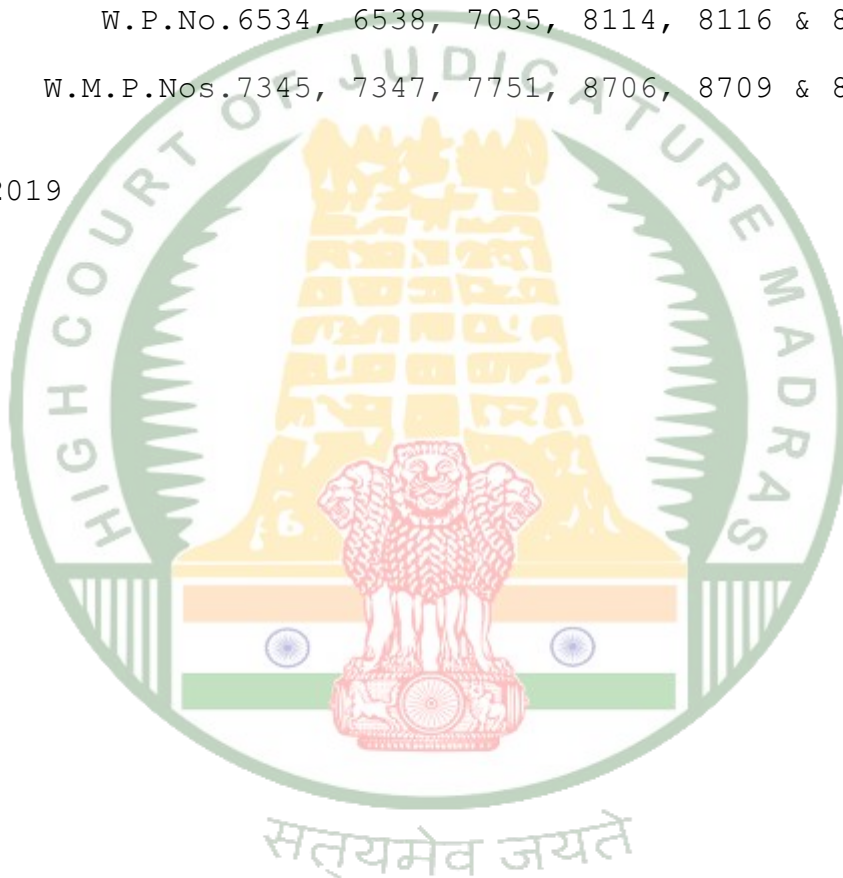
To

1.The Presiding Officer,
Principal Labour Court, Vellore.

+6ccs to Mr.L.P.Shanmugasundaram, Advocate sr.79971, 79973 to
79977

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