



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 14.12.2021

CORAM:

THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

W.A.No.2556 of 2013
and
M.P. No.1 of 2013

Duraisamy ... Appellant/Petitioner
vs.
1. The Presiding Officer,
Labour Court,
Coimbatore.
2. The Manager,
Kallur Estate,
Soolaiyur Post,
Coimbatore District. ... Respondents /Respondents

Writ Appeal filed under Clause 15 of the Letters Patent,
to set aside the order in W.P.No.36063 of 2002, dated 16.8.2012
and thereby allow the Writ Appeal.

Prayer in W.P.No.36063 of 2002: Petition filed under Article 226
of The Constitution of India praying to issue a writ of
certiorarified mandamus directing to call for the records
pertaining to the award made in I.D.No.193 of 1998 dated
07.01.2002 in so far as the denial of backwages payable to the
petitioner and quash the same and the consequential order
directing the 2nd respondent to pay the backwages payable to the
petitioner with interest and other costs.

For Appellant : Mr.S.T.Varadha Rajulu

For Respondents : R1 - Court
Mr. Anand Gopalan - R2
for T.S.Gopalan & Co.



JUDGMENT
(Judgment was delivered by M. DURAISWAMY, J.)

Challenging the order passed in W.P.No.36063 of 2002, the Writ Petitioner has filed the above Writ Appeal.

2. The appellant filed the Writ Petition to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the award made in I.D.No.193 of 1998, dated 07.01.2002 in so far as the denial of back wages to him, quash the same and the consequential order directing the 2nd respondent to pay back wages payable to the petitioner with interest and other costs.

3. The short point that arise for consideration in this Writ Appeal is whether the appellant is entitled to back wages for the period commencing from 22.11.1997 to 07.01.2002.

4.1 The appellant was placed under suspension on 11.07.1997 and subsequently was terminated from service on 27.11.1997. The appellant along with two co-employees, viz., Periyasamy and Chelladurai, challenged the order of termination by raising Industrial Dispute in I.D.No.193 of 1998 on the file of the Labour Court, Coimbatore and the Labour Court, by its Award dated 07.01.2002, directed the 2nd respondent to reinstate the appellant back in service continuity of service. While ordering reinstatement, the Labour Court, did not give any direction to pay back wages for the period from 22.11.1997 to 07.01.2002.

4.2 Challenging the Award passed by the Labour Court, the appellant filed the Writ Petition in W.P. No. 36063 of 2002 and the learned Single Judge, by order dated 16.08.2012, confirmed the order passed by the Labour Court and dismissed the Writ Petition.

4.3 Challenging the order passed by the learned Single Judge, the appellant has filed the above Writ Appeal.

5.Mr. Anand Gopalan, learned counsel appearing for the 2nd respondent-Management submitted that the quantum of compensation for the period from 22.11.1997 to 07.01.2002 comes to Rs.1,33,000/-. Further, the learned counsel submitted that the The Labour Court, while ordering reinstatement without back wages, took into consideration the award passed in I.D. No.191 of 1998 filed by the co-employee, viz., Periyasamy, who was also directed to be reinstated without back wages.



6. From the materials available on record placed before this Court, it could be seen that even the Labour Court had observed that the appellant was struggling without job and that an opportunity should be given to him to correct himself. He remained jobless for nearly four years. On reinstatement, the appellant worked to the satisfaction of the Management and attained superannuation. The appellant has also established his case before the Labour Court by adducing oral and documentary evidences.

7. It is also the contention of the appellant that the other two employees viz., Periyasamy and Chelladurai, who were also terminated and denied the back wages, had approached this Court by filing Writ Petitions and during the pendency of the Writ Petitions, they came forward to settle their dispute with the Management and on the basis of the settlement, two sons of Periyasamy were given employment by the Management and a sum of Rs.5,40,000/- was also paid to him. In respect of Chelladurai, as he died, the gratuity and other service benefits were given. However, the learned counsel for the 2nd respondent denied the said contentions of the learned counsel for the appellant.

8. Since the quantum of back wages is only Rs.1,33,000/- , we are of the considered view that the 2nd respondent can be directed to pay a consolidated sum of Rs.1,00,000/- [Rupees one lakh only] inclusive of interest for the reason that the appellant had discharged his duties to the satisfaction of the 2nd respondent-Management.

9. Accordingly, the order passed by the learned Single Judge in W.P.No.36063 of 2002 is modified by giving a direction to the 2nd respondent-Management to pay a consolidated sum of Rs.1,00,000/- [Rupees one lakh only] inclusive of interest to the appellant, within a period of four weeks from the date of receipt of a copy of this Judgment.

With these observations, the Writ Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Rj



To

1. The Presiding Officer,
Labour Court,
Coimbatore.

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+1cc to Mr.S.T.Varadarajulu, Advocate SR.No.66766
+1cc to Mr.T.S.Gopalan & Co, Advocate SR.No.66743

W.A.No.2556 of 2013 and
M.P. No.1 of 2013

GJ(CO)
GN(27/12/2021)