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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.08.2021

PRONOUNCED ON : 07.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.26032 of 2004
and
WPMP.No.31630 of 2004

The Commissioner,
Budaloore Panchayat Union,
Budaloore, Thanjavur District.

... Petitioner

Vs.

1.Swaminathan

2.Veeramani

3.Rajendran (deceased)

4.The Presiding Officer,
Labour Court,
Cuddalore.

5.Nadiammal

[R5 substituted as proposed respondent in the
place of deceased R3 vide order dated 23.09.2010
by SMKJ in WPMP.No.543 of 2010 in W.P.26032/2004]

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the fourth respondent in connection with the order passed in I.D.No.51 of 2000 dated 12.03.2003 and to quash the same.

For Petitioner : Mr.Nedunchezhiyan
for Mr.G.Sankaran

For Respondent : Mr.V.Ajay Khose
Nos.1 & 2



O R D E R

The present Writ Petition is heard through Video Conferencing on 23.08.2021.

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2. The impugned award dated 12.03.2003 passed by the Labour Court, Cuddalore in I.D.No.51 of 2000, directing reinstatement of the respondents 1 to 3 herein together with continuity of service and back wages, is put under challenge by the petitioner-Management in the present Writ Petition.

3. The Labour Court while passing the impugned award, had observed that the respondents 1 to 3 herein, had put in 240 days of service which is deemed to be a "continuous service" under Section 25B of the Industrial Disputes Act, 1947 [hereinafter referred to as "Act"] and therefore had held that the retrenchment of these respondents was improper.

4. While the learned counsel for the petitioner would submit that the respondents 1 to 3 were engaged on seasonal basis and therefore not entitled for reinstatement or regularization, the learned counsel for the respondents 1 to 3 submitted that since the Management have not disputed the service of 240 days in a calendar year, they are deemed to have been in continuous service in terms of Section 25B of the Act and since the retrenchment was opposed to the conditions contemplated under Section 25F of the Act, there are no infirmities in the impugned award ordering reinstatement.

5. I do not find any infirmity in the findings of the Labour Court since the respondents 1 to 3 were admittedly engaged for more than 240 days in a calendar year, they were deemed to be in continuous service as provided under Section 25B of the Act. While that being so, the proper procedure to retrench such workmen, who were in continuous service, would be to abide by the conditions provided under Section 25F of the Act. It is not in dispute that the conditions precedent to retrenchment of the workman prescribed under Section 25F of the Act was not followed while these respondents were retrenched. As such, the Labour Court was correct in its findings that the 'termination' was illegal.

6. Furthermore, the claim of the Management that these respondents were engaged on seasonal basis has no relevance since the industrial dispute is not one for conferment of permanent status. Even assuming that these respondents were engaged on seasonal basis, such engagement will have no



relevance to an order of retrenchment since Section 25B and Section 25F will be applicable to "any workman" employed in any industry.

7. In the light of the above observations, I do not find any infirmity or illegality in the award of the Labour Court passed in I.D.No.51 of 2000 dated 12.03.2003. Accordingly, the Writ Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no orders as to costs.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

DP

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to Mr.G.Sankaran, Advocatae Sr.65234

+1cc to Mr.V.Ajoy Khose, Advocate Sr.64302

W.P.No.26032 of 2004

and

WPMP.No.31630 of 2004

pa[co]

srg 17/12/2021