



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.40679 of 2005

Management of Indira Theatre
Gobichettipalayam,
Erode 638 453
rep. by its Proprietrix

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. G.Parameswaran

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the 1st Respondent in I.D.No.360 of 1999, dated 06.07.2004 and 18.10.2004 and I.A.No.355 of 2004 in I.D.No.360 of 1999, dated 18.10.2004, quash the same.

For Petitioner : Mr.R.Parthiban

For 2nd Respondent : Ms.G.P.Arivuchudar

O R D E R

Petitioner/Management has come up with this Writ Petition challenging the orders dated 06.07.2004 and 18.10.2004 passed by the 1st Respondent/Labour Court in I.D.No.360 of 1999 and the order dated 18.10.2004 passed in I.A.No.355 of 2004 in I.D.No.360 of 1999.

2. It is seen that, by the preliminary order, the Labour Court held that, the domestic enquiry was conducted in a fair and proper manner and that, in the final Award, it held that, the 2nd Respondent/employee is entitled to a sum of Rs.35,000/- as compensation together with interest at 6% per annum, instead of ordering reinstatement and other benefits. It is represented that, pursuant to the interim order granted by this Court, 50% of the Award amount, i.e. a sum of Rs.17,500/- was deposited by the Petitioner/Management on 10.01.2006.



3. Even assuming that, the preliminary order is interfered with and the matter is remanded to the Labour Court, admittedly, the Petitioner/Management has not taken a plea before the Labour Court that, in case, domestic enquiry is held to be not fair and proper, they should be given an opportunity to let in evidence. Though the Management has filed a counter statement before the Labour Court on 27.04.2000, they have not taken a plea for four years till the Application to recall the preliminary order was filed.

4. Even if this Court accepts the contention of the Petitioner/Management to remand the matter, certainly, the Petitioner/Management cannot be given permission to let in fresh evidence to establish the charges, after two decades. The Management should have taken a plea at the earliest point of time, and not after the preliminary order is passed. That apart, on merits, the Labour Court has granted compensation of a sum of Rs.35,000/-, but has not ordered reinstatement and other benefits. Moreso, the employee has not filed any Writ Petition challenging the Award.

5. It is represented by the learned counsel for the Petitioner/Management that, Indira Theatre is not functioning as on date and that, the employees have been dismissed from service as early as on 28.05.1997 and that, almost 24 years have gone by. According to the learned counsel, if the matter is remanded, definitely it will be problematical to the owners of the Management, as they cannot lead fresh evidence to establish the charges and permission was not sought for earlier and the permission sought for later, was rejected by this Court.

6. Remanding the matter to the Labour Court is not going to affect the Petitioner/Management. In order to shorten the life of litigation, this Court, instead of remanding the matter, modifies the amount of compensation awarded by the Labour Court by increasing it to Rs.40,000/- over and above the amount already deposited by the Petitioner/Management in the Labour Court.

7. Since the interest awarded by the Labour Court has been quantified by this Court as lumpsum compensation, the interest portion awarded by the Labour Court is interfered with and the same is set aside.

8. It is made clear that, the amount lying in deposit before the Labour Court together with accrued interest can be withdrawn by the 2nd Respondent/employee, if not already withdrawn.



The Writ Petitioner is ordered accordingly. No costs.
Consequently, connected W.P.M.P.No.43637 of 2005 is closed.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Presiding Officer,
Labour Court, Salem.

+1CC to Mr.R.Parthiban, Advocate, Sr.No.35386

W.P.No.40679 of 2005

GP (CO)
K.RK. (22.09.2021)