



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2021

PRONOUNCED ON : 29.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.5737 OF 2011

Kamalammal

... Petitioner

.Vs.

1. The Presiding Officer,
Labour Court, Cuddalore.

2. The Management,
Tamil Nadu Warehousing Corporation,
No.2, Pragasam Road,
Thiyagarayar Nagar,
Chennai - 600 017.

... 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 of the of the Award dated 28.07.2010 made in I.D.No.67 of 2001 on the file of the first respondent herein and to quash the same insofar as it is against the petitioner herein.

For Petitioner : Mr.T.Dhanyakumar

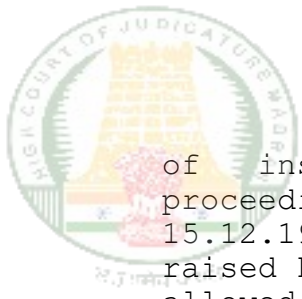
For Respondent No.2 : Mr.Selvakodi Ramalingam
For Mr.M.Jothi Kumar

For Respondent No.1 : Labour Court

O R D E R

The present Writ Petition is heard through Video Conferencing on 15.09.2021.

2. The petitioner herein had joined the second respondent Corporation as a Part-Time Sweeper in the year 1986. On charges



of insubordination, she was subjected to disciplinary proceedings and ultimately dismissed from her services on 15.12.1997, with effect from 01.11.1996. The industrial dispute raised by the petitioner in I.D.No.67 of 2001, came to be partly allowed by directing the Management to reinstate the petitioner, without continuity of services or back wages, through the impugned Award dated 28.07.2010.

3. The second respondent Management had not challenged the present impugned Award. In other words, the Management had, in principle, agreed to reinstate the petitioner without any benefits. However, since the petitioner had already reached the age of superannuation of 60 years during the year 2008 itself, she was not reinstated. The fact that the petitioner has reached the age of superannuation had apparently not been brought to the notice of the Labour Court, at the time of passing of the award.

4. The reasons assigned by the Labour Court for ordering reinstatement was that pursuant to the charges framed against her, she has submitted her explanation by tendering her apology and given an undertaking to discharge her duties as per the wishes of her superior officers. It was also found by the Labour Court that the charges were not so major in order to attract the major punishment of dismissal and on this ground of disproportionateness, it had ordered the Management to reinstate her back into service. Further by taking into account of her insubordination to her higher officials, it had refused the monetary benefits.

5. When the Labour Court had rendered its reasonings based on the evidences available and thereby come to the conclusion that the petitioner had tendered her apology and given undertaking for her good behaviour and also that the punishment was disproportionate to the charges, the petitioner would be entitled for some relief. The reasonings adduced by the Labour Court has been accepted by the Management, since they have not challenged the Award. Thus, when the petitioner's charges were minor in nature and she had also tendered her apology together with an undertaking for good behaviour in future and further when the punishment itself was held to be disproportionate to the charges, the relief of reinstatement, which has now become redundant, could be moulded into one of monetary compensation.

6. In this background, by taking into account that the petitioner herein had joined the second respondent Corporation as a Sweeper in the year 1986 and had rendered her services till 1997, for more than 10 years, I am of the considered opinion that a lumpsum of Rs.50,000/- as compensation would be just and fair.



7. In the light of the above observations, the impugned Award dated 28.07.2010 passed in I.D.No.67 of 2001, is modified to the effect that the second respondent herein shall pay a lumpsum amount of Rs.50,000/- as compensation, in lieu of her claim for reinstatement. The second respondent shall endeavor to pay the aforesaid amount, atleast within a period of six weeks from the date of receipt of a copy of this order. The Writ Petition stands ordered accordingly. There shall be no orders as to costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Presiding Officer,
Labour Court, Cuddalore.
2. The Management,
Tamil Nadu Warehousing Corporation,
No.2, Pragasam Road,
Thiyagarayar Nagar,
Chennai - 600 017.

+1cc to Mr.T.Dhanyakumar, Advocate, S.R.No.56381

W.P.NO.5737 OF 2011

NRJK(CO)
PBS/10/11/2021