



WEB COPY



W.P.No.6035 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

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THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6035 of 2011
and M.P.No.1 of 2014 in Rev.Aplw.No.SR38883 of 2012

The Cuddalore Coir Worker's
Industrial Cooperative Society
Limited No.Ind.187,
Rep. by its Special Officer,
Salakkarai,
Cuddalore O.T. - 607003
Cuddalore District.

... Petitioner

Vs.

1.V.Kumaresan

2.The Management,
The Neyveli Lignite Corporation
Industrial Co.op. Service Society Ltd.,
Opp. to 1st Thermal,
Neyveli – 607807,
Cuddalore District.

3.Presiding Officer,
Labour Court,
Cuddalore, Cuddalore District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the Award passed by the third respondent in Industrial Dispute No.65 of 2003 dated 03.12.2009 and quash the same.



W.P.No.6035 of 2011

For Petitioner : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.C.Vediappan

For Respondents : Mr.K.A.Ravindran [R1]
Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co. [R2]
R3 - Court

ORDER

The first respondent herein, was initially appointed as a Clerk with the petitioner Society (hereinafter referred to as 'Cuddalore Society') from 04.03.1991 onwards. On the basis of certain resolutions passed by the Cuddalore Society, the first respondent was transferred on 'lending basis' and absorbed in the second respondent Society (hereinafter referred to as 'NLC Society'), with effect from 01.12.2001 onwards. This transfer was approved by the General Manager of District Industries Centre on 17.12.2002. In the meantime, the first respondent (hereinafter referred to as 'workman') was terminated from services by NLC Society on 01.10.2002. Challenging the termination, the workman has raised a dispute in Industrial Dispute No.65 of 2003 before the Labour Court, Cuddalore and by an Award dated 03.12.2009, the termination order was set aside and the Cuddalore Society was directed to reinstate the workman together with continuity of service and backwages. The said Award is put under challenge in the present Writ Petition.



2. Mr.R.Neelakandan, learned Additional Advocate General appearing for the petitioner Society submitted that the Labour Court had traversed beyond the scope of its powers under Section 11A of the Industrial Disputes Act, while ordering the Cuddalore Society to reinstate the workman. According to him, the powers vested with the Labour Court are in two folds, either to set aside the order of discharge or dismissal or to order for reinstatement of the dismissed workman. In support of such statement, the learned Additional Advocate General pointed out to the findings of the Labour Court in the impugned Award and submitted that the findings with regard to the transfer of the workman from Cuddalore Society to NLC Society and his subsequent reversion back to the parent Society are not the subject matter of the industrial dispute and hence, the Labour Court has exceeded its jurisdiction.

3. Per contra, the learned counsel for the first respondent submitted that though the first respondent was initially transferred on lending basis from Cuddalore Society to NLC Society, the orders of the District Industries Centre ratify such a resolution passed by the Society which came to be cancelled by orders of revision passed by the Additional Commissioner of Industries and Commerce and therefore, there is no infirmity in such findings of the Labour Court.



4. I have given careful consideration to the submissions made by the respective counsels.

5. Insofar as the scope of Section 11A of the I.D. Act is concerned, it is no doubt true that while exercising its powers under this Section, the Labour Court is required to arrive at a subjective satisfaction as to whether the order of discharge or dismissal is justified and on such satisfaction, an Award is required to be passed. This Section also provides for certain powers to the Labour Court to make certain terms and conditions as it thinks fit for the purpose of effectively implementing such Award. In other words, when the Labour Court either finds the order of discharge to be illegal, it can set aside such an order and pass a consequential order for the purpose of implementing such a decision. Likewise, if the Labour Court finds that the order of discharge is justified, it can dismiss the Industrial Dispute.

6. In the instant case, while considering the evidences before it, the Labour Court found that though the workman was transferred on lending basis and such a transfer was approved on 17.12.2002. It had placed reliance on the subsequent developments whereby, such a transfer on lending basis of the first respondent herein, was set aside in the revisional order passed by the Additional



W.P.No.6035 of 2011

Commissioner of Industries and Commerce. When the ultimate conclusion of the Labour Court was to the effect that the order of termination was illegal, such an order requires to be effectively implemented and when the evidences before it establishes that the workman was reverted back to the parent unit, it was justified in directing the Cuddalore Society to reinstate the workman. Such a direction to the Cuddalore Society is in conformity to the powers vested under Section 11A of the I.D. Act. Apart from the aforesaid grounds raised by the petitioner Society questioning the jurisdiction of the Labour Court, all other grounds touches upon the evidences and this Court exercising its powers under Article 226 of the Constitution of India, will not be empowered to re-appreciate the evidences.

7. In the result, I do not find any merits in this Writ Petition and hence, the same stands dismissed. No costs. Connected miscellaneous petition is closed.

16.02.2022
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Speaking : Yes/No
Index : Yes/No
Internet : Yes/No

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W.P.No.6035 of 2011

M.S. RAMESH,J.

Sni

To

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