

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.Nos.24682 and 14664 of 2016

W.P.No. 24682 of 2016

P.Selvakumar

... Petitioner

Vs.

1. The Management,
M/s.Bharat Heavy Electricals Ltd.,
Indra Gandhi Industrial Complex,
Ranipet - 632 406.

2. The Presiding Officer,
Labour Court, Vellore.

... Respondent

W.P.No.14664 of 2016

The Management,
M/s.Bharat Heavy Electricals Ltd.,
Indra Gandhi Industrial Complex,
Ranipet - 632 406.

... Petitioner

Vs.

1. The Presiding Officer,
The Principal Labour Court,
Vellore, Vellore District.

2. P.Selvakumar

... Respondents

PRAYER in W.P.No.24682 of 2016: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Award dated 16.02.2016 passed in I.D.No.341 of 1998, quash the portion of the Award declining 50% back wages and consequently, direct the second respondent to pay full back wages to the petitioner for the period from 17.11.1998 to the date of superannuation on 11.08.2012.

For Petitioner : Mr.S.T.Varadarajulu

For Respondent No.1 : Mr.Anand Gopalan
for M/s.T.S.Gopalan

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PRAYER in W.P.No.14664 of 2016: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in I.D.No.341 of 1998, and quash the Award dated 16.02.2016.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan

For Respondent No.2 : Mr.S.T.Varadarajulu

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C O M M O N O R D E R

These Writ Petitions have been filed by the rival parties against the Award of the Labour Court directing reinstatement with continuity of service with 50% of the back wages.

2. According to the Management, the enquiry has been held to be valid by virtue of an order passed in I.A.No.315 of 2015 in I.D.No.341 of 1998, dated 17.11.2015. According to them, once the Labour Court has come to the finding that the enquiry is fair and proper, scope is limited and it is only with respect to proportionality of punishment. The Labour Court having found the various reasons, held that the workman has indulged in some dishonorable behavior as admitted in paragraph No.5(a) of the claim petition and it would not be proper to interfere with the punishment.

3. Per contra, the learned counsel appearing for the workman would contend that the Management has magnified a minor incident and the issue has been blown out of proportion. In fact, he has not indulged in any dishonorable behavior and therefore, the Labour Court has rightly interfered with the punishment and ordered reinstatement. But, having done so, should not have reduced the backwages. Therefore, claims reinstatement with 100% back wages.

4. I have considered the rival submissions.

5. Admitted facts are that on the fateful day i.e., on 14.08.1992, the workman entered into the premises of the Manager, while he was on leave and created a scene. In the claim statement, it is clearly admitted. Since the enquiry proceedings are held to be fair and proper, the evidence given on the side of the Management remains intact. So far as the punishment for dishonorable behavior is concerned, it has to be considered as to whether the Workman is liable to be terminated or not?

6. Throughout the spell, between April, 1991, and August, 1992, the Workman has suffered two punishments and yet he indulged in yet another misconduct as admitted by him in his claim statement. This behavior of the workman certainly deserves punishment. During the pendency of the pleadings, he attained the age of superannuation. Therefore, there is no purpose in terminating his service or ordering reinstatement.

7. Therefore, instead of interfering with the punishment imposed by the Management, it is better to give quietus to the issue by ordering monetary compensation. The Labour Court has already given a finding that the workman voluntarily absented himself between 09.10.1993 and 17.11.1998. From 17.11.1998, till date of his superannuation, the petitioner was paid a sum of Rs.1,74,000/- towards last drawn wages under Section 17(b) of the Industrial Disputes Act, 1947.

8. Considering the facts and circumstances of the case and in view of the decision taken to order monetary compensation, the Award passed by the Labour Court in I.D.No.341 of 1998 dated 16.02.2016, is modified and a sum of Rs.3,00,000/- (Rupees Three Lakh Only) is awarded as compensation. The Management is directed to pay the compensation to the workman within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is also entitled to gratuity for the admitted period of service.

With the above directions, these Writ Petitions are disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
The Principal Labour Court,
Vellore, Vellore District.

+1cc to M/s.T.S.Gopalan & Co., Advocate, S.R.No.11127.

+1cc to Mr.S.T.Varadharajulu, Advocate, S.R.No.11280.

W.P.Nos.24682 and 14664 of 2016

SKY(CO)
CSR 29.03.2021



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