



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

The Honourable Mr. Justice T.S. SIVAGNANAM
and
The Honourable Mr. Justice SATHI KUMAR SUKUMARA KURUP

W.A.No.2211 of 2021
and
C.M.P.No.13999 of 2021

T.S. Jaganathan ...Appellant/1st Respondent

-VS-

1. M/s. The Mylapore Hindu Permanent Fund Ltd,
Rep. by its Secretary,
Nos.32 and 33, South Mada Street,
Mylapore, Chennai. .. Respondent/Petitioner
2. The Presiding Officer,
Principal Labour Court,
Chennai. .. 2nd Respondent/2nd Respondent

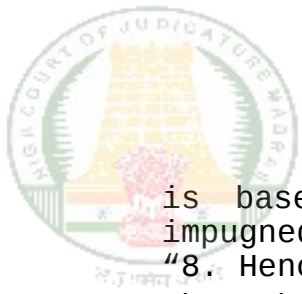
Appeal filed under Clause 15 of Letters Patent, praying to set aside the order in W.P.No.28948 of 2015 dated 19.07.2021 and consequently, direct the first respondent to pay the 50% of the backwages from 19.03.1998 to 02.12.2011 and arrears of backwages from 22.04.2015 being the date of the award in I.D.No.28 of 1999 till the appellant is reinstated, award costs.

Prayer in w.p.no.28948 of 2015: writ petition filed under section 226 of the constitution of india it is prayed that this hon'ble court may be pleased to issue a writ of certiorari calling for the records pertaining to I.D. 28/99 on the file of the 2nd Respondent herein and quash the same.

For Appellant : Mr. Balan Haridas
For Respondent : Mr. Janarthanam (For R1)

J U D G M E N T
(Delivered by T.S.Sivagnanam, J.)

This Appeal by the First Respondent in W.P. No. 28948 of 2015 is directed against the order dated 19.07.2021, by which the Writ Petition filed by the First Respondent - employer challenging the award of the Labour Court dated 22.04.2015 in I.D.No.28 of 1999 was allowed.



2. The sole reason, on which the appeal was allowed, is based on a finding recorded in paragraph No. 8 of the impugned order, which reads as follows :-

"8. Hence, this Court deprives the entire backwages awarded by the Labour Court on the sole reasoning that, the 1st Respondent, who is an Advocate, has approached this Court with unclean hands by filing a false statement. In the considered opinion of this Court, this is a fit case to prosecute the 1st Respondent for making a false statement on oath, attracting the provisions of Section 191 IPC."

3. The case of the Appellant-workman is that though he had studied law and enrolled as an Advocate, he did not practise the profession and was not gainfully employed. That apart, the order, which was subject matter of challenge before the Labour Court, was an order of discharge dated 19.03.1998 and ever since then, the Appellant employee was not gainfully employed, and this has been a consistent case. The Appellant workman though enrolled as an Advocate on 02.11.2011, and he has no professional income as a Lawyer. In any event, the lis before the Court was whether the Labour Court was right in set aside the order of discharge passed in the year 1998, and anything, which has happened much after the impugned award, which was dated 22.04.2015, could not have been basis for allowing the Writ Petition. Apart from that, notice was also given to the Appellant workman to appear before the Court for preliminary enquiry under Section 195 read with Section 340 CrPC, which in our considered opinion was not necessary.

4. Thus, for all the above reasons, the Writ Appeal is allowed, the order passed in the Writ Petition dated 19.07.2021 is set aside and the Writ Petition is restored to the file of the Learned Single Judge to be heard and decide the matter afresh on merits. Since, the Writ Petition is of the year 2015, Registry is directed to list the Writ Petition for hearing before appropriate Hon'ble Bench to give an early hearing for the Writ Petition, preferably, by the end of October, 2021. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

Sp/Maya



To

The Presiding Officer,
Principal Labour Court,
Chennai.

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Copy to

The Section Officer, Writ Section, High Court, Madras.
(Post the Matter)

+1CC to Mr.Balanharidas, Advocate, SR.No. 47078

W.A.No.2211 of 2021

and

C.M.P.No.13999 of 2021

MG(CO)

B.VC (06/10/2021)