



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28549 of 2014

and

M.P.No.1 of 2014

1.The Management/Chief Engineer, TNEB
Distribution, Villupuram.

2.The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Villupuram.

...Petitioners

vs

1.The Presiding Officer,
Labour Court, Cuddalore.

2.P.Loganathan (deceased)

3.Tmt.Susila

4.Mr.L.Thangaraj

5.Tmt. Bharathi.

(R3 to R5 substituted as LR's of
deceased R2 vide order dated 29.06.2021
made in WMP.No.2100/2021 in W.P.No.
28549/2014)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the award passed by the first respondent made in I.D.No.151/2002 dated 05.08.2010, quash the same.

For Petitioner : Mr.P.Subramanian

For Respondents : Mr.S.N.Ravichandran (R3 to R5)

O R D E R

This Writ Petition has been filed challenging the award passed by the first respondent made in I.D.No.151/2002 dated 05.08.2010, by which the Labour Court vide award dated 05.08.2010 has ordered reinstatement to the workman with continuity of service only on 09.08.1995 on the basis of last pay drawn to be taken as pay as on 09.08.1995 for the purpose of making (enabling) the workman to entitle the terminal benefits



and pensionery benefits if any from the Management, and not backwages and other benefits.

2. During the pendency of this Writ Petition, the workman/second respondent died and his legal heirs were brought on record as respondents 3 to 5 in the writ petition.

3. The main contention of the learned counsel for the Petitioner-Management is that the employee had gone out of India and the communications sent to him were returned with an endorsement "Left India". It is further contended that when the employee was asked to produce the passport to show his travel particulars, he had conveniently produced a copy of the new Passport, which has no endorsement at all, instead of production of the old Passport No.R159427 dated 13.04.1981 and, therefore he submitted that the employee has not approached the Labour Court with clean hands.

4. The counsel for the legal heirs of the deceased workman contended that passport was produced and the award of the Labour Court is based on finding of fact which need not be interfered with.

5. Heard both sides. Perused the material available on record.

6. In the present case on hand, the employee has failed to produce the passport pertains to him bearing Passport No.R159427 dated 13.04.1981 and other old passports, which creates doubt that the employee Left India for better employment and that he had not approached the Labour Court with clean hands. The Labour Court has held that the workman has not produced the satisfactory evidence to support his case. Further, when the documents are in custody of the workman, he is bound to produce the same. It is a clear case of suppression of fact by the employee. Had he been alive, certainly this Court would have invoked Sections 195 r/w 340 of Cr.P.C. to enquire about false affidavit, which attracts Sections 191 of I.P.C. for punishment under Section 193 of I.P.C. The Labour Court have also held that it cannot be said that there was no misconduct on the part of the workman and that misconduct by the workman cannot be said to be not proved. That apart after the dismissal order dated 11.05.1985, the employee has sent an application only on 09.08.1995 i.e., after a decade to the Special Cell of Honourable Chief Minister of Tamil Nadu with copy to the Chairman of the Petitioner-Management, which had been ultimately resulted in Industrial Dispute.

7. The Labour Court held that employee would be entitled for reinstatement with continuity of service only on 09.08.1995 for the purpose of enabling the workman to entitle terminal benefits and pensionery benefits, if any from the Management and not entitled to backwages and other benefits.



8. As the Legal Heirs of the deceased workman were already brought on record and the employee is no more, the question of reinstatement does not arise and as already held by the Labour Court, the employee would be entitled to the terminal benefits and pensionary benefits, if any till date of dismissal and not after that. The benefits if any, shall be extended to the legal heirs of the deceased employee, within a period of six months from the date of receipt of a copy of this order.

9. In the result, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Labour Court, Cuddalore.

+1cc to Mr.P.Subramanian, Advocate, S.R.No.35360

+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.35152

W.P.No.28549 of 2014

PM(CO)
RVM(23/08/2021)