



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 07.01.2021

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

WEB COPY

W.P. (MD)No.10423 of 2010
and
M.P. (MD)No.1 of 2010

The Superintending Engineer,
Tirunelveli Electricity Distribution Circle,11,
Tamil Nadu Electricity Board,
Maharaja Nagar, Tirunelveli.

: Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.M.Mohamed Abdul Kadhar

: Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records of the first respondent Labour Court relating to its order, dated 28.11.2008 passed in C.P.No.44 of 2002 and quash the same as illegal and without jurisdiction.

For Petitioner

:Mr.V.Anand Gopalan

for Mr.T.S.Gopalan

For R2

:No Appearance

ORDER

The case of the petitioner is that the second respondent entered into service as Telephone Operator on 20.02.1970. For his unauthorised absence, a disciplinary proceedings was initiated against the second respondent and after conducting enquiry, the second respondent was dismissed from service on 26.02.1985 by the Disciplinary Authority. Thereafter, the second respondent filed a statutory appeal before the appellate authority and the appellate authority also dismissed the appeal filed by the second respondent. Against the said dismissal of appeal, the second respondent raised an industrial dispute in I.D.No.303 of 1987. The Labour Court passed an award on 01.02.1993 and set aside the dismissal order and directed the petitioner to reinstate the second respondent with continuity of service along with 50% back wages and other benefits, against which, the petitioner Board filed a Writ Petition in W.P.No.937 of 1994. Pending the Writ Petition, in the interim application, this Court directed the petitioner herein to deposit a sum of Rs.21,943/- before the first respondent and the same was complied with and subsequently, the said Writ Petition was dismissed



on 18.10.2000.

2. After the dismissal of the Writ Petition, the second respondent filed a claim petition in C.P.No.44 of 2002. In the Claim Petition, the first respondent computed the last drawn wages and other benefits based on the calculation memo given by the second respondent and an award was passed on 28.11.2008, in favour of the second respondent, against which, the present Writ Petition is filed.

3. Mr. Anand Gopalan, learned Counsel for the petitioner submits that after dismissal of the second respondent from service and based on the order of the Labour Court in the industrial dispute, the writ petition filed by the petitioner herein was dismissed. Subsequent to the dismissal of the writ petition, the 2nd respondent filed C.P.No.44 of 2002 in which the Labour Court passed the impugned order directing the petitioner herein to pay a sum of Rs.3,38,659/- with 12% interest per annum to the 2nd respondent.

4. It is the further submission of the learned counsel for the petitioner that pending the Writ Petition, the second respondent died and there is no representation on behalf of the second respondent. Hence, the learned counsel for the petitioner submitted that this Court may direct the petitioner Board to pay reasonable compensation as may be fixed by this Court to the legal representatives of the second respondent within a time as may be fixed by this Court.

5. This Court bestowed its best attention to the submissions advanced on behalf of the petitioner, even though none appeared for the 2nd respondent, who it is stated died during the pendency of the writ petition.

6. The facts, as put forth by the learned counsel for the petitioner, are borne out by records and there is no dispute on the same. The Labour Court had passed an award as early as in the year 2008 based on the calculation memo submitted by the 2nd respondent herein. The total amount computed by the Labour Court to be paid by the petitioner herein was arrived at Rs.3,38,659/-, which carries an interest of 12% till the said amount is paid to the 2nd respondent. However, it is fairly submitted by the learned counsel for the petitioner that the said amount has neither been paid to the petitioner nor deposited in any interest bearing account. However, it is pleaded by the learned counsel for the petitioner that instead of directing the petitioner to pay the amount of Rs.3,38,659/- along with interest at 12% p.a., till the amount is paid to the legal representatives of the 2nd respondent, this Court may pass directions to the petitioner to pay a lumpsum amount to the legal representatives of the 2nd respondent so that the issue is given a quietus.



7. This Court, records its appreciation not only for the earnest efforts taken by the learned counsel for the petitioner to put forth the facts before this Court, but also for taking a fair stand with regard to payment of amount that is due and payable to the legal representatives of the petitioner. In view of the above undisputed position, this Court is inclined to accede to the request of the petitioner and modify the payment to a lumpsum amount.

8. The award of the Labour Court directing the petitioner herein to pay a sum of Rs.3,38,659 along with interest at 12% is set aside and instead the petitioner herein is directed to pay a lumpsum of Rs.11,00,000/- in full quit to the legal representatives of the second respondent on or before 28.2.2021.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10. Post the matter for reporting compliance on 01.03.2021.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1cc to M/s.P.MALINI, ADVOCATE, SR NO.562

Order made in
W.P. (MD) No.10423 of 2010
07.01.2021

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TP (CO)

KK(08.01.2021) 3P 4C