



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED:06.01.2021**

**CORAM:**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**  
**W.P. (MD)No.10860 of 2010**

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The Management,  
Noorul Islam College of Engineering  
represented by the Chairman  
Now Noorul Islam University,  
represented by the Chancellor  
A.Majeed Khan,  
Kumarakoil, Thuckalay,  
Kanyakumari District.

... Petitioner

Vs.

1.The Presiding Officer,  
Labour Court,  
Tirunelveli.

2.K.Ayyappan

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the award passed by the first respondent in I.D.No.79 of 2003, dated 22.12.2009 and quash the same.

For Petitioner : Mr.M.Azeem  
For R2 : Mr.F.Deepak

**O R D E R**

This writ petition has been filed challenging the award passed by the Labour Court in I.D.No.79 of 2003, dated 22.12.2009 and quash the same.

2. The petitioner Management is an Educational Institution and the second respondent was the Member of the Tamil Nadu Ex-servicemen Service Society, Pulliyoorkurihi, Thuckalay. The said Society deputed the second respondent for temporary work in the College and in the men's hostel of the College, from April 2001. On 20.09.2002, the warden of the men's hostel gave a written complaint to the Manager of the College stating that the second respondent came to the men's hostel in a drunken condition and misbehaved with the hostel students and the staff. The Manager of the College enquired the second respondent and warned him for his



misconduct. Hence, the second respondent left the College voluntarily. Thereafter, he made an application to the Assistant Commissioner of Labour, Conciliation, on 24.03.2003 and the petitioner Management has objected the claim of the second respondent. The Assistant Commissioner of Labour has filed a failure report on 09.07.2003. Thereafter, the second respondent has filed an application before the Labour Court, Tirunelveli under Section 2(A) of the Industrial Disputes Act. The petitioner Management has filed a counter and disputed the claim and sought permission to let in evidence. The Labour Court, Tirunelveli has also permitted the petitioner to let in evidence and the second respondent was examined as P.W.1 and one Kolappan was examined as P.W.2 and Exs.P1 to P9 were marked on the side of the second respondent. However, the labour Court has passed an award in favour of the second respondent. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the men's hostel warden viz., Subbiah Pillai was examined as M.W.1 and the Supervisor of the College viz., Asok Kumar was examined as M.W.2 and in the chief examination, they have clearly stated that the second respondent has purchased the liquor bottles from the Military canteen and supplied to the hostel students. However, without considering the said evidence, on 22.12.2009, the Labour Court has passed an award in favour of the second respondent. Hence, the petitioner has filed the present writ petition.

4. The learned counsel appearing for the second respondent would submit that though the Management witness viz., Subbiah Pillai in his chief examination clearly deposed that the second respondent has purchased the liquor bottles from the Military Canteen and supplied to the hostel students and misbehaved with the students, he did not mention about the same in his complaint. The Labour Court has considered the same and passed the award.

5. Heard the learned counsel for the petitioner, learned counsel for the second respondent and perused the materials available on record.

6. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere

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8. In **MAK India Private Limited represented by its Managing Director, Coimbatore vs. A.Palaniswamy & Others ((2010) 0 Supreme (Mad) 1136)**, the Division Bench of this Court has held as follows:

13. Coming to the aspect of the present case, the learned counsel for the Appellant/Management informs this Court that the Appellant/Management is not functioning and as a matter of fact, the respondents 1 to 3/claimants had settled their accounts after the dismissal order dated 14.08.1984, issued to them.

15. It cannot be forgotten that the date of dismissal of the respondents 1 to 3/claimants dates back to 14.06.1984 and 14.09.1984 respectively and



nearly 15 years have gone by. In the affidavit filed by respondents 1 to 3, there are no averments that the respondents 1 to 3 were not gainfully employed elsewhere. Therefore taking note of the development that the Appellant/Management is not functioning (as informed by the learned counsel for the appellant), such orders of reinstatement of the respondents 1 to 3/claimants in their respective posts with continuity of service and payment of backwages from 1991 as ordered by the learned single Judge passed in the writ petition in W.P.No.6556 of 1990 dated 23.09.1998 will not serve the desired purpose to the respondents/claimants and in order to do equitable justice and to promote the substantial cause of justice, we are inclined to interfere with the said order of the learned single judge and instead we direct the Appellant/Management to pay a sum of Rs.50,000/- (Rupees fifty thousand only) each to the respondents/claimants in full quit as compensation within a period of eight weeks from the date of receipt of a copy of this order and accordingly, dispose of the writ appeal in the above terms without costs. The connected miscellaneous petition is closed.

9. Though this Court is not inclined to interfere with the order of Labour Court on the ground that the petitioner Management has not established the perversity, considering the fact that the workman employed as temporarily and after lapse of several years, ordering for reinstatement will not serve any purpose to the workman and in order to do equitable justice, I am inclined to modify the award passed by the Labour Court. Accordingly, the petitioner Management is directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) as compensation, without any interest, to the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above modification, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To  
The Presiding Officer,  
Labour Court, Tirunelveli.

Copy to  
The Section Officer, V.R. Section,  
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.M.AZEEM, Advocate ( SR-527[F] dated 07/01/2021 )  
+1 CC to M/s.F.DEEPAAK, Advocate ( SR-552[F] dated 08/01/2021 )

**W.P. (MD)No.10860 of 2010**  
**06.01.2021**

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