



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.10559 of 2011

P.Muthukrishnan

... Petitioner

Vs.

1.The Management,
Sree Meenakshi Mills Limited,
Paravai,
Samayanallur Post,
Madurai- 625 402.

2.The Presiding Officer,
Labour Court,
Madurai.

... Respondents

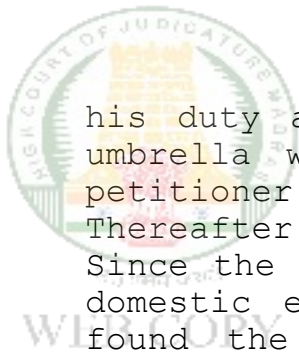
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the Award passed by the second respondent in I.D.No.91 of 2004 dated 27.04.2011, quash the same insofar as denial of backwages and other attendant benefits to the petitioner and consequently direct the first respondent to pay backwages and other attendant benefits to the petitioner.

For Petitioner	:	Mrs.D.Geetha
For Respondent No.1	:	Mr.T.Ravichandaran
Respondent No.2	:	Labour Court

ORDER

This writ petition is filed against the Award passed by the second respondent in I.D.No.91 of 2004 dated 27.04.2011 and to direct the first respondent to pay backwages and other attendant benefits to the petitioner.

2. The case of the petitioner is that the petitioner joined service in the first respondent Mill as a Trainee Watchman and Trainee Driver on a consolidated wage of Rs.600/- per month with effect from 21.03.1992. While he was employed at the Head Office of the first respondent Mill, he joined the Kovai Jilla Panchalai Thozhilalar Sangam attached to the HMS Union in the year 1997. The first respondent was unable to bear the Union activities and transferred the petitioner to the Paravai Branch vide order dated 20.03.1998 and thereafter the petitioner joined Paravai Branch on 23.03.1998. While he was in service, the first respondent placed the petitioner under suspension by his order dated 25.10.1999 along with the charge memo on the allegation that the petitioner slept on



his duty at night watchman on 15.10.1999 and further the company umbrella was also misplaced and it is further alleged that the petitioner is having the habit of sleeping on duty as watchman. Thereafter the petitioner submitted his explanation on 31.10.1999. Since the explanation offered by the petitioner was unsatisfactory, domestic enquiry was ordered and in the domestic enquiry it was found the charges levelled against the petitioner were proved. Subsequently, the petitioner was issued with a second show cause notice, for which the petitioner also submitted his explanation and as the explanation was not satisfactory the same was rejected and it was concluded that the charges framed against the petitioner were proved and based on the enquiry report, the petitioner was dismissed from service on 31.10.2000.

3. As against the order of dismissal from service, the petitioner raised an Industrial Dispute in I.D.No.91 of 2004 before the Labour Court, Madurai, and after analysing oral and documentary evidence, the Labour Court held that the charges levelled against the petitioner were proved and therefore, the Labour Court passed an award of reinstatement of service, however, dismissed the petition insofar as the backwages and other attendant benefits is concerned. As against the denial of back wages and attendant benefits by the Labour Court the petitioner has filed the present writ petition.

4. Mrs.D.Geetha, learned Counsel appearing for the petitioner would contend that the Labour Court has passed the order denying the back wages not on the basis of the petitioner was gainfully employed in the interregnum period, but as a punishment, the Labour Court denied the back wages to the petitioner is not sustainable in the eye of law and therefore, the learned Counsel prayed for allowing the writ petition filed by the petitioner and thereby ordering for backwages.

5.Per contra, the learned Counsel appearing for the respondent Mill would submit that the charges against the petitioner was clearly established before the Labour Court and there is no procedural violation for conducting disciplinary proceedings as against the petitioner and based on the proven charges, the Labour Court denied the backwages and therefore, the order of the Labour Court cannot be interfered with.

6. Heard the learned Counsel on either side and carefully perused the materials placed on record.

7. 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 with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

8. Therefore, the reinstatement with continuity of service ordered by the Labour Court cannot be interfered with. However, as per the contention raised by the learned counsel for the petitioner that the denial of back wages by the Labour Court is awarded as a punishment, which also cannot be interfered with.

9. In the light of the above discussion, I am not inclined to interfere with the order of the Labour Court, Madurai, passed in I.D.No.91 of 2004, dated 27.04.2011 and this writ petition stands dismissed accordingly. No costs. However, it is needless to say that the petitioner is entitled to continuity of service for the purpose of retirement benefits.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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,
Madurai.

W.P (MD) Nos.10559 of 2011

18.02.2021

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