



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)Nos.12802 and 12803 of 2011 and 5840 of 2012

W.P(MD)No.12802 of 2011:

K.Senthurpandi

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.The Management,
Raj Shree Sugars and Chemicals Ltd.,
Varadaraj nagar, Periakulam Taluk,
Theni District.

... 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 impugned award in I.D.No.28/1999 on the file of the Respondent No.1 and quash the same as illegal and consequently to direct the respondents to reinstate the petitioner in service at the 2nd respondent Industry within the time stipulated by this Court.

For Petitioner	:	Mr.T.Lajapathi Roy
Respondent No.1	:	Labour Court
For Respondent No.2	:	Mr.Anand Gopalan for M/s.T.S.Gopalan &Co.,

W.P(MD)No.12803 of 2011:

R.Baluchamy

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.The Management,
Raj Shree Sugars and Chemicals Ltd.,
Varadaraj nagar, Periakulam Taluk,
Theni District.

... 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 impugned award in I.D.No.27/1999 on the file of the Respondent No.1 and quash the same as illegal and



consequently to direct the respondents to reinstate the petitioner in service at the 2nd respondent Industry within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy
Respondent No.1 : Labour Court
For Respondent No.2 : Mr.Anand Gopalan
for M/s.T.S.Gopalan &Co.,

W.P(MD)No.5840 of 2012:

Kubendran ... Petitioner
Vs.

1.The Management,
Raj Shree Sugars and Chemicals Ltd.,
Varadharaj Nagar, Periyakulam Taluk,
Theni District.

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 impugned order passed by the 2nd respondent in I.D.No.29 of 1999, dated 30.03.2011, quash the same and consequently reinstate the petitioner with all backwages, continuity of service and all monetary benefits with interest.

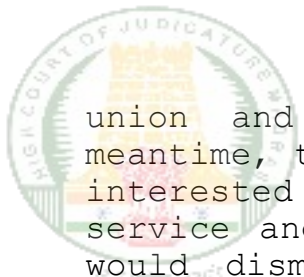
For Petitioner : Mr.Joel Paul Antony
for M/s.M.Veilkani Raju
Respondent No.2 : Labour Court
For Respondent No.1 : Mr.Anand Gopalan

COMMON ORDER

Since the issue involved in these writ petitions are interconnected and are arising out of the Industrial Dispute raised by the Employees before the Labour Court, Madurai, these writ petitions are heard together and disposed of by way of this common order.

2. The petitioners in these writ petitions are the workers of the respondent Management, hereinafter will be referred to as 'Employees' and the respondent Management is the Raj Shree Sugars and Chemicals Ltd., hereinafter will be referred to as 'Employer'.

3. The case of the Employees is that they are workers of the Employee and joined on different dates. They have been working there for the past several years. Their last drawn monthly salary is nearly Rs.3,500/-. In the year 1994, the employees wanted to form a trade union, but the management was against the formation of trade



union and suggested to form a Negotiation Committee. In the meantime, two employees, namely, Manickam and Ravichandran, who were interested in the formation of trade union were dismissed from service and the Employer threatened the other employees that they would dismiss them, if they had been indulged any trade union activities. Though the employees accepted the formation of Negotiation Committee, they demanded for the implementation of the demands made by the Employees Union. Aggrieved over the same, the Employer dismissed two employees, namely, Natesan and Bhoopathy. While so, on 10.08.1996, a registered trade Union was formed and registered as No.1198/MDU/96 and the Employees hoisted the trade Union flag in the highways near the Employer Mill and also they also decided to participate in the May Day function to be held on 01.05.1997 at Chennai. Thereafter, a police van arrived to the factory and also some persons assembled in the factory and police were also present there. At that time, the Employer officials identified some of the Employees to the police and they were arrested by the police and a criminal case was registered against 51 employees for the offence under Sections 147, 148, 341, 427, 448, 342, 323 and 506(ii) of IPC. Thereafter, 37 employees including the present petitioners in these writ petitions were lodged in the Madurai Jail and subsequently, they were released on bail. Based on the criminal case lodged against the employees, the Employer suspended 51 employees. Thereafter, the Employer held direct negotiation on 26.05.1997 before the Deputy Commissioner of Labour, Madurai and the Employer agreed to revoke the suspension order passed against the employees and agreed to take them back without prejudice to their action. However, the Employer did not take back 7 employees including the present petitioners, who were the office bearers of the said trade Union. Subsequently, a charge memo was issued to the present employees on 10.5.1997 and suspension order was issued on 10.6.1997. Thereafter, the employees submitted their explanations on 29.8.1997 and a domestic enquiry was conducted and finally it was concluded on 30.8.1997. The employees asked for certain documents from the Employer, by letters dated, 4.11.1997 and 20.11.1997, but the Employer refused to furnish the said documents. The enquiry officer conducted one side enquiry and refused to record the evidence of the employees and filed enquiry report as if the charges levelled against the Employees were proved on 27.12.1997 and thereafter, the Employer issued second show cause notice and the Employees were not given adequate opportunity to defence their case. Based on the enquiry report, the Employees were dismissed from service by order dated 24.12.1997. Because of the dismissal of 6 Employees, a strike notice was issued fixing the date of strike on 26.4.1998 and therefore, the Employer called the employees for compromise on 25.4.1998 and obtained signatures by using coercive methods. Thereafter, the Employer announced that on 25.4.1998 there was a settlement arrived between the Union and the Management and as per the 18(1) settlement the Employer has paid Rs.2,00,000/- as compensation to the Employees. But the 18(1) settlement dated 25.4.1998, which shows that there is no signature of the Union or there



is no seal by the Union.

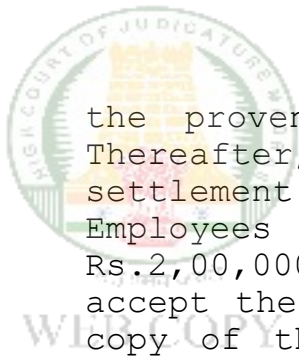
4. As against the order of dismissal from service, the Employees raised Industrial Disputes in I.D.Nos.27/1999, 28/1999 and 29/1999 before the Labour Court, Madurai and the dispute was tried independently and oral and documentary evidence were placed by the Employer as well as the Employee.

5. After analysing oral and documentary evidence, the Labour Court held that the charges levelled against the Employees were not proved. Hence, the Labour Court arrived a conclusion that the punishment imposed against the Employees is disproportionate and the said dismissal order was modified to the effect of payment of compensation and fixed the compensation at Rs.2,30,000/- each. Since already there was 18(1) settlement in between the Employees Union and the Employer and as per the settlement the Employees had already been received a sum of Rs.2,00,000/- each, as compensation, the remaining amount of Rs.30,000/- shall be paid to the Employees within a period of one month from the date of receipt of that order.

6. As against the compensation ordered by the Labour Court, the Employees have filed the present writ petitions for reinstatement with continuity of service with all monetary benefits and backwages.

7. The learned Counsels appearing for the Employees would submit that the issue arises in the present writ petitions is very short. The allegations against the employees as if the employees participated in the illegal strike hosted by the Union and based on the illegal strike, they were issued with charge memo and enquiry was conducted and based on the enquiry report, they were dismissed from service. After the dismissal, the Employer asked the Employees to come to a lodge at Theni for negotiation and believing the sugar-coated words, the Employees went to the lodge, where the Employees were threatened by the Employer and the Employer obtained settlement letter by way of coercive methods and except no other option, the Employees put their signatures in the settlement letter. The settlement and payment receipt were marked as exhibits before the Labour Court. Such a settlement is non-est in the eye of law and based on the above said settlement, the Labour Court arrived a conclusion and modified the dismissal order to compensation is not sustainable one. Accordingly, they prayed for allowing these writ petitions.

8. Per contra, Mr.Anand Gopalan, learned Counsel appearing for the Employer would submit that the Employees were involved in illegal strike and thereby, the criminal case was registered against them in various provisions of IPC. After registration of the criminal case against the Employees, the charge memo was issued and after conducting enquiry after following due process of law, the Employees were drawn proven minutes against the Employees. Based on

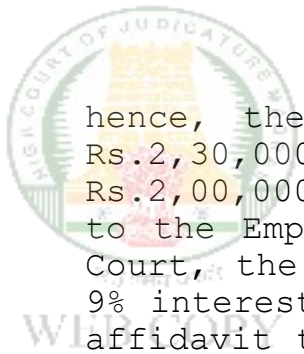


the proven minutes, the Employees were dismissed from service. Thereafter, the Union demanded for negotiation and accordingly, a settlement was arrived on 25.4.1998 between the Employer and the Employees Union and on the same day, the Employees received Rs.2,00,000/- each, as compensation and the Employees agreed to accept the termination order. The receipt of the said amount and a copy of the 18(1) settlement were marked as exhibits before the Labour Court. Though the Employees claimed that the 18(1) settlement was arrived by way of coercive methods and admittedly, the settlement was arrived between the parties on 25.4.1998. The Employees sent reiteration letter to the Labour Officer only on 24.7.1998, ie., after the lapse of three months of 18(1) settlement, only for the purpose of raising the industrial disputes. Thus, after receiving the compensation amount by way of settlement, raising the industrial dispute is non-est in the eye of law. Accordingly, he prayed for dismissal of these writ petitions.

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

10. 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.

11. The fact in the present cases are not in dispute. There was a charge memo against the Employees for participation of the illegal strike for which a criminal case was registered against the Employees. Though the Employees claimed that the criminal case ended in acquittal in favour of the Employees, however, before acquittal, disciplinary proceedings were initiated against the Employees and the same was ended in dismissal from service. The Labour Court had elaborately discussed the matter and arrived a conclusion that the enquiry was conducted in a proper manner and the said dismissal was not disputed by the Employees as well as the Employer. The only dispute is though the Labour Court arrived a conclusion that the punishment imposed by the Employer is highly disproportionate, however, the Labour Court arrived a conclusion that already there was a dispute between the Employee Union and the Employer and



hence, the order of dismissal was modified into compensation of Rs.2,30,000/-. Since the Employees already received a sum of Rs.2,00,000/- the remaining amount of Rs.30,000/- shall be settled to the Employees within one month. As per the award of the Labour Court, the Employer accepted to pay the amount of Rs.30,000/- with 9% interest from 30.3.2011, date of award and the Employer filed an affidavit to that effect on 07.07.2017 during the pendency of these writ petitions. Hence, I could not find any error in the order passed by the Labour Court. It is also not in dispute that since there was a settlement arrived in between the parties, there is no question of discussing about the punishment as to whether the punishment is disproportionate or not. Hence, this Court is not inclined to amplify the issue further.

12. 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.Nos.27/1999, 28/1999 and 29/1999, dated 30.03.2011 and therefore, all these writ petitions are dismissed. No costs.

Sd/-

Assistant Registrar(CS-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.

+2 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-8549 & 8550[F] dated 03/03/2021

**W.P(MD)Nos.12802/2011 and
12803/2011 and 5840/2012
01.03.2021**

srk(CO)
TR(23.06.2021) 6P 4C