



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

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

W.P.(MD)No.4660 of 2011

and

MP(MD)No.1 of 2011

WEB COPY

The Director of Institute of Ophthalmology,
Joseph Eye Hospital, Melapudur,
Tiruchirappalli-1.

... Petitioner

Vs

1.The Presiding Officer,
Labour Court, District Court Campus,
Tiruchirappalli-1.

2.P.Stella

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned preliminary order, dated 06.05.1998 and the impugned award of the first respondent in I.D.No.65 of 1994, dated 24.09.2009 and to quash the same.

For Petitioner : Mr.K.Rajmohan

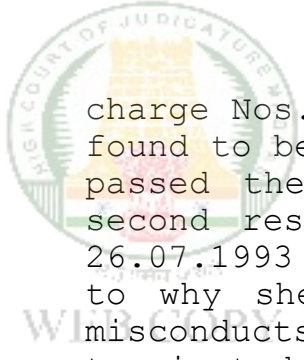
For R2 : Mr.R.Thangasamy

O R D E R

Challenging the impugned preliminary order, dated 06.05.1998 and the impugned award passed by the first respondent in I.D.No.65 of 1994, dated 24.09.2009, the writ petition has been filed.

2.The brief facts of the case is that the petitioner is an Educational Institution specializing in Ophthalmology and also recognized by the M.G.R.University. The 2nd respondent was working as a Librarian in the petitioner's establishment. While she was in the employment of the petitioner, she committed serious misconducts and in charge of the library, she was derelicted from her duties and lent the books to various users and the same was not entered in the register maintained for the purpose. Further, while she was working as Librarian in the Institute of Ophthalmology, she has caused deficit of the books and financial loss to the institution which is worth about Rs.7,400/-. Therefore, the charge memo was issued on 14.03.1990 to the second respondent seeking for explanation. Since her explanation was not satisfactory, an Enquiry Officer was appointed.

2.1.The Enquiry Officer, after hearing the second respondent and the petitioner management, has submitted his report that the

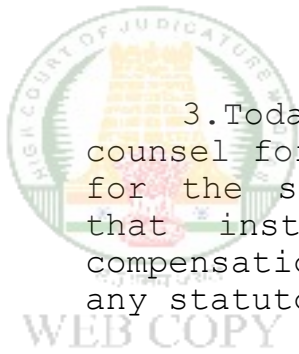


charge Nos.1, 2, 4 and 5 levelled against the second respondent are found to be proved and based on which, the petitioner management has passed the order of dismissal from their employment against the second respondent. Thereafter, a second show cause notice, dated 26.07.1993 was served upon her directing her to give explanation as to why she should not be dismissed from service for the proved misconducts and after, her explanation was not satisfactory, she was terminated from service.

2.2.As against the order of dismissal, the second respondent has raised industrial disputes before the first respondent in I.D.No.65 of 1994, dated 24.09.2009. The first respondent/Labour Court, Tiruchirappalli, by considering the gravity of charges levelled against the second respondent and the punishment imposed by the petitioner management, set aside the order of dismissal and directed the petitioner management to reinstate the second respondent into service. Aggrieved by the aforesaid award, the petitioner filed a writ petition in W.P.No.3839 of 1999 before this Court and the same was disposed of on 10.07.2008 and the matter was remitted back to the first respondent/Labour Court for fresh consideration in accordance with law.

2.3.Thereafter, the second respondent filed a petition to re-open the matter for amending the claim petition and the same was allowed and the second respondent also filed amended claim statement. The first respondent ought not to have allowed the second respondent to amend the claim statement. Thereafter, the first respondent allowed the parties to adduce evidence and finally passed the impugned award dated 24.09.2009 and the same was displayed in the Notice Board of the Assistant Commissioner of Labour (Conciliation), Tiruchirappalli, on 24.05.2010. The first respondent found that the charges have not been proved and consequently, set aside the dismissal order and directed reinstatement with continuity of service with back wages after adjusting the payment made to the second respondent under Section 17-B of the Act and other benefits.

2.4.The first respondent while directing reinstatement and back wages etc., failed to take into consideration that the second respondent attains the age of superannuation as on 30.04.2010. As against the order of dismissal, the second respondents have raised industrial disputes before the Labour Court, Tirunelveli, in I.D.Nos.67 and 70 of 2005, respectively. The Labour Court, Tirunelveli, by considering the gravity of charges levelled against the second respondent and the punishment imposed by the petitioner management, set aside the order of dismissal and directed the petitioner management to reinstate the second respondent into service. Challenging the award passed by the first respondent as well as the preliminary order, dated 06.05.1998, the petitioner is constrained to move the present writ petition.



3.Today, when the matter is taken up for hearing, the learned counsel for the petitioner Management as well as the learned counsel for the second respondent/Workman, on instructions, would submit that instead of reinstatement, this Court may fix a fair compensation of Rs.6,00,000/- as full and final settlement, without any statutory benefits.

4.In view of the submissions made by the learned counsel for the petitioner Management as well as the learned counsel for the second respondent/Workman, the award is modified to the effect that the petitioner Management is directed to pay a compensation of Rs.6,00,000/- (Rupees Six Lakhs only) to the second respondent/Workman as full and final settlement without any statutory and other benefits, within a period of four weeks from the date of receipt of a copy of this order.

5.With the above modification, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// 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, District Court Campus,
Tiruchirappalli-1.

+1 CC to M/s.R.RAJARAM, Advocate (SR-1475[F] dated 20/01/2021)

W.P. (MD) No.4660 of 2011
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