



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. No.12684 of 2016
WMP (MD) .11070, 11071 of 2016, 24754,
24755 of 2016, 7502 of 2020

The Management
M/s.Vinayaka Missions Medical College & Hospital
Keezhakasakudimedu Kottucherry
Karaikal-609 609
Pondicherry. ... Petitioner

Vs

- 1 The Presiding Officer
Labour Court (FAC)
Pondicherry.
- 2 M.R.Arul Jothi ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for the records connected with I.D.(L) No.56 of 2012 on the file of the 1st respondent and quash the order dated 12.04.2014.

For Petitioner ... Mr.John Zachariah

For Respondents... Mr.Balan Haridas,
for the second respondent

O R D E R

The petitioner is a medical college and hospital. The second respondent was a workman with the petitioner management and he was engaged as a driver. According to the petitioner management, he was employed through an independent contractor, who was supplying water to the petitioner management during the period 2002-2003. According to the management, the workman was engaged on 'need basis', on daily wages.

2. It transpired that the second respondent workman had approached the authority constituted under the Tamil Nadu Conferment of Permanent Status Act, claiming permanency of his service. The said authority issued notice to the petitioner.



Challenging the same, the petitioner management approached this Court by filing writ petition in W.P.No.14611 of 2009, and the workman, on his part, filed W.P.No.6280 of 2010, seeking direction to conclude the inquiry pending before the authority under the Tamil Nadu Conferment of Permanent Status Act. Both the matters were heard together, and by way of a common order dated 01.04.2010, this Court allowed the writ petition filed by the petitioner management and dismissed the writ petition filed by the workman on the ground that the authority did not have any jurisdiction.

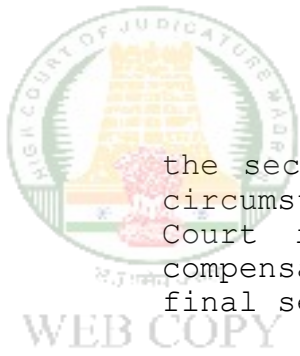
3. In the meanwhile, the petitioner management decided not to engage the services of the petitioner as there was no requirement at all for his continued engagement. He was advised to look for an alternate employment. The petitioner served the second respondent with a termination order and he was also settled with severance compensation as admissible to him. A cheque was also issued to him in this regard, which was accepted by him and the same was also subsequently encashed by him.

4. After receiving the amount, the petitioner raised a dispute, which was referred before the Labour Court for adjudication. Despite the strong objections by the petitioner management before the Labour Court, the Labour Court found that the petitioner management had complied with the requirements but ultimately held that the termination was illegal and passed the award ordering reinstatement with continuity of service, back wages and other benefits, vide award dated 12.04.2012 in I.D.(L) No.56 of 2012. Aggrieved by the same, the petitioner management is before this Court.

5. When the matter is taken up for hearing, though arguments were advanced on the merits and demerits of the writ petition, ultimately, the dispute had boiled down to the fact that the reinstatement ordered by the Labour Court was implemented and the second respondent workman joined the management but he left the job on his own on 01.11.2019.

6. When the fact of the matter is that the second respondent workman had left the job on his own, which fact has not been disputed by the learned counsel, Mr.Balan Haridas, appearing for the second respondent workman, the award as such cannot be confirmed in its entirety. Moreover, in view of the workman leaving on his own on 01.11.2019, and not interested in his employment with the petitioner management, the award as such is unworkable and unimplementable any further.

7. In the above circumstances, this Court is not inclined to affirm the award passed by the first respondent Labour Court. But at the same time, when the award was rendered in favour of



the second respondent workman on consideration of the facts and circumstances of the case that led to his termination, this Court is inclined to modify the award by ordering lumpsum compensation to be paid to the second respondent as full and final settlement.

8. In consideration of the entirety of the facts and circumstances of the case, this Court arrives at a compensation of Rs.3,00,000/- (Rupees Three Lakh only) as full and final settlement to be paid to the workman by the management, and on such payment, the second respondent workman will have no further claim against the petitioner management whatsoever.

9. The payment of Rs.3 lakh is to be paid by the management within a period of eight weeks from the date of receipt of a copy of this order. The award is modified to the extent as indicated above and the writ petition is disposed of on the above terms. There will be no order as to costs. Consequently, W.M.P.Nos.11070 and 11071 of 2016, 24754, 24755 of 2016 and 7302 of 2020 are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer
Labour Court (FAC)
Pondicherry.

+1cc to Mr.Fox Mandal & Associates, Advocate, S.R.No.12404

W.P. No.12684 of 2016

SK(CO)
SB(25/03/2022)