



WEB COPY



W.P.No.23184 of 2003

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2022

CORAM :
THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.23184 of 2003
and W.P.M.P.No.28650 of 2003

The Management of
Rajashree Spinning Milss,
(unit of Rajashree Sugars & Chemicals Ltd.,)
6/7 A.Vilankurichi Road, Peelamedu,
Coimbatore.
Rep. by its Director.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.N.Raju

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari, calling for the records of the first respondent in I.D.No.681 of 1999 and quash its award dated 30.10.2002.

For Petitioner : Mr.S.Haroan
for M/s.T.S.Gopalan

For Respondent 1 : Court

For Respondent 2 : Mr.K.V.Shanmuganathan



W.P.No.23184 of 2003

WEB COPY

ORDER

The case of the petitioner is that the second respondent viz., N.Raju was working as a Clerk in the petitioner mill. On 21.05.1997 he was working in the third shift and during his working hours he has assaulted a casual worker. Thereafter from 22.05.1997 the petitioner did not report for work. Moreover, the petitioner was also facing criminal cases in respect of the incident of assault committed by him on 21.05.1997. As the second respondent was not reported for work, the petitioner could not take any disciplinary action against him. This being so after two years during August 1999 the petitioner received a communication from the Assistant Commissioner of Labour, Coimbatore enclosing the petitioner's petition under Section 2A of the Industrial Disputes Act, 1947 dated 12.07.1999. Wherein, the second respondent alleged that the petitioner denied employment for him on 22.05.1997, but the second respondent did not give any reason as to why there was a delay of more than two years in raising the dispute.

2. On 27.08.1999, the petitioner has submitted its reply stating that it had not terminated the service of the second respondent and it is the petitioner



W.P.No.23184 of 2003

who assaulted a casual workman on 21.05.1997 and did not report for work.

Moreover, the petitioner also made it clear that the second respondent can be directed to report for work immediately. The petitioner only expected the second respondent to give an explanation for his long absence and give an assurance that he would be regular in work henceforth. In the above circumstances, the Conciliation Officer ought to have closed the dispute raised by the second respondent as not maintainable. Instead, he submitted a failure report dated 22.10.1999.

3. The above issue was raised as an Industrial dispute by the second respondent and it was adjudicated before the first respondent in I.D.No.681 of 1999. Before, the first respondent, the petitioner filed Ex.M.1 to Ex.M.12 and examined its General Manager – Industrial Relations & Administration, S.Thirumalai as M.W.1. The second respondent examined himself as W.W.1 and marked Ex.W.1 to Ex.W.7. The Labour Court has passed an award in I.D.No.681 of 1999 dated 30.10.2002, directed the petitioner to reinstate the second respondent with continuity of service and 25% of backwages. Pursuant to the award of the first respondent dated 30.10.2002, the second respondent requested the petitioner to provide him employment. By reply



W.P.No.23184 of 2003

dated 11.06.2003, the petitioner has directed the second respondent to report for work within next seven days, without prejudice to its contention to challenge the relief of compensation granted by the first respondent. The second respondent has also reported for work on 18.06.2003 and he is working as on date. There is no justifiable reason whatsoever in directing the petitioner to pay 25% back wages to the second respondent whose dispute should have been dismissed on the ground of delay and laches apart from merits. Aggrieved over the said order dated 30.10.2002, the petitioner has come forward with the present writ petition.

4. when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the amount of 25% backwages awarded by the Labour Court, Coimbatore in I.D.No.681 of 1999 dated 30.10.2002 has already been deposited to the second respondent. Moreover, the delinquent employee was already reinstated by the petitioner management on 18.06.2003. Hence, nothing survives for further adjudication in this case.

5. The learned counsel for the second respondent submitted that permission may be granted to the second respondent to withdraw the amount



W.P.No.23184 of 2003

of 25% backwages deposited by the petitioner management along with the accrued interest.

6. Considering the submission made by the learned counsel on either side, this writ petition is closed and this Court grants permission to the second respondent to withdraw the amount of 25% backwages deposited by the petitioner along with the accrued interest from the concerned bank.

7. In the result, this writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2022

vm

Index : Yes/No

Speaking Order : Yes/No

To:

1. The Presiding Officer,
Labour Court, Madurai.

Page No.5 of 7



WEB COPY



W.P.No.23184 of 2003

J.SATHYA NARAYANA PRASAD,J.

Vm

W.P.No.23184 of 2003



WEB COPY



W.P.No.23184 of 2003

21.07.2022