



W.P.No.26321 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2022

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

Writ Petition No.26321 of 2004

N.Raju

... Petitioner

Vs.

1.The Assistant Commissioner of Labour,
Conciliation No.1,
Dr.Balasundaram Road,
Coimbatore – 18.

2. The Management of
Raja Shree Spinning Mills,
1186, Avinashi Road,
Peelamedu,
Coimbatore.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 07.06.2004 passed by the first respondent vide his proceedings viz., Na.Ka.No.Aa.1086/03 rejecting the complaint preferred by the petitioner under Section 29 of the ID Act , 1947 and quash the same and further direct the first respondent herein to prosecute the second respondent no implementing of the award of the Labour Court passed in I.D.No.681 of 1999.

Page No.1 of 9



W.P.No.26321 of 2004

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For Petitioner : Mr.K.V.Shanmuganathan

For Respondent 1 : Mr.G.Nanmaran,
Special Government Pleader

For Respondent 2 : Mr.S.Haroan
for M/s.T.S.Gopalan

ORDER

The learned counsel for the petitioner submitted that the petitioner has joined the service of the second respondent as spinning clerk on 11.03.1991 and worked for nearly six years until he was unceremoniously terminated from service on 22.05.1997. Moreover, the last drawn salary of the petitioner is Rs.2650/- This being so on 22.05.1997 the second respondent has terminated the petitioner from service without any reason. Hence, the petitioner approached the second respondent through legal notice on 20.08.1997, seeking for reinstatement and the same was not considered by the second respondent. Thereafter, the petitioner has personally approached the Chief Executive of the second respondent and made a request to reinstate him into the service and even after being waited for nearly two years the second respondent has not replied to the petitioner.



W.P.No.26321 of 2004

WEB COPY

2. The learned counsel for the petitioner further submitted that challenging the termination the petitioner has raised an Industrial Dispute before the Assistant Commissioner of Labour (Conciliation), Coimbatore and the conciliation has ended in failure. After the failure of the conciliation proceedings the first respondent has sent a failure report to the Government of Tamil Nadu. Thereafter, the petitioner preferred a claim statement before the Labour Court, Coimbatore against the termination. Based on the materials available on record the Labour Court, Coimbatore had passed an award in I.D.No.681 of 1999 dated 30.10.2002, directed the second respondent to reinstate the petitioner in service with 25% backwages.

2.1. After getting the above award the petitioner wrote a letter dated 23.05.2003 to the second respondent enclosing the copy of the Labour Court's award. After receiving the same the second respondent directed the petitioner to report for duty on 18.06.2003, the petitioner had also joined the duty on 18.06.2003. Instead of reinstating the petitioner as a spindle clerk the second respondent has directed him to do the work of a helper. Hence, the petitioner

Page No.3 of 9



made a representation dated 20.06.2003 to the second respondent expressing his objection for not providing him the job of spindle clerk. The second respondent in its letter dated 24.06.2003 gave a reply that the Labour Court did not give any specific direction to provide the job of the spindle clerk to the petitioner. Again the petitioner made a representation on 27.06.2003 to the second respondent pointing out that they are violating the award of the Labour Court. Thereafter the second respondent gave a reply on 02.07.2003 alleging that the petitioner has been absented himself from duty since 20.06.2003, moreover the second respondent has stated that they are ready to provide the job of spindle clerk to the petitioner and the petitioner reported for duty on 09.07.2003.

2.2. Contrary to the promise made the second respondent again provided the job of helper to the petitioner. However the petitioner has carried out the work given to him from 09.07.2003 to 19.07.2003. This being so the petitioner met the Vice-President of the second respondent on 20.07.2003 and expressed his objection against the arbitrary action of the management in not providing him the job of spindle clerk. The Vice-President of the second respondent asked the petitioner to leave the premises



left with no other option, the petitioner has left the mill premises.

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3. The learned counsel for the petitioner contended that the petitioner has preferred an application before the first respondent on 18.09.2003, under section 29 of the ID Act, 1947, seeking to prosecute the second respondent management for not complying with the award of the Labour Court. Thereafter, the second respondent has sent a show cause notice dated 18.09.2003 to the petitioner alleging that he was absented for duty on his own without giving any intimation to the second respondent from 21.07.2003, subsequently the petitioner has also sent a detailed reply on 23.09.2003 wherein the petitioner has mentioned the contradictory stand taken by the second respondent in the matter of implementation of the Labour Court's award. After receiving the reply dated 23.09.2003 the second respondent sent a letter dated 29.09.2003, directed the petitioner to report for duty. Immediately after receiving the said letter from the second respondent, the petitioner gave a reply on 16.10.2003.

3.1. The second respondent herein submitted their reply to the complaint preferred by the petitioner on 27.10.2003. Subsequently the



W.P.No.26321 of 2004

petitioner has submitted a rejoinder on 15.12.2003. Thereafter the second respondent submitted their additional reply on 24.12.2003. In the additional reply the second respondent mentioned that they could not implement the award of the Labour Court since the job previously performed by the petitioner had been computerized, moreover the first respondent also rejected the complaint preferred by the petitioner under section 29 of the Industrial Disputes Act, 1947 in Na.Ka.No.Aa.1086 of 2003 on 07.06.2004. Aggrieved over the proceeding issued by the first respondent, the petitioner has come forward with the present writ petition.

4. The learned counsel appearing for the second respondent submitted that the second respondent has filed a writ petition in W.P.No.23184 of 2003, challenging the award of the Labour Court made in I.D.No.681 of 2009 dated 30.10.2002 and subsequently filed a W.M.P.No.28650 of 2003 to stay the operation of the award of the Labour Court dated 30.10.2002 in so far as granting relief of payment of 25% backwages and continuity of service pending disposal of the writ petition. Further, this Court granted interim stay on 21.08.2003 to the award of the Labour Court.



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5. The learned counsel for the second respondent further submitted that in order to vacate the interim stay dated 21.08.2003, the petitioner has filed a W.M.P.No.1845 of 2004, which was dismissed by this Court on 21.12.2004 as the petitioner had already been reinstated by the second respondent on 18.06.2003. Therefore, the order of the first respondent in Na.Ka.No.Aa.1086/03 dated 07.06.2004, rejected the petitioner's complaint is right and sustainable in law. However, this Court directed the second respondent to deposit the 25% of the backwages to the petitioner and the same was also complied with by the second respondent.

6. Considering the submission made by the learned counsel on either side, it is clear that the petitioner has been reinstated by the second respondent on 18.06.2003 and deposited the 25% backwages payable to the petitioner. Hence, the first respondent has rightly rejected the complaint preferred by the petitioner.

7. In view of the above facts and circumstances of the case, this Court is not inclined to interfere with the order dated 07.06.2004 passed by the first respondent vide his proceeding viz., Na.Ka.No.Aa.1086 of 2003 and the same



W.P.No.26321 of 2004

is hereby confirmed.

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8. In the result, this writ petition stands dismissed. No costs.

21.07.2022

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Index : Yes/No

Speaking Order : Yes/No

J.SATHYA NARAYANA PRASAD,J.

Vm

To:

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W.P.No.26321 of 2004



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W.P.No.26321 of 2004

21.07.2022