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W.P.Nos.27280 of 2005 & 25169 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2022

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition Nos.27280 of 2005 & 25169 of 2011

V.Natarajan

... Petitioner in both W.Ps

Vs.

1.The Management of Hindustan,
Photo Film Manufacturing Company Ltd.,
Indu Nagar, Udagamandalam,
The Nilgiris.

2.The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents in both W.Ps

PRAYER in W.P.No.27280 of 2005: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records in I.D.No.31 of 1992 on the file of the 2nd respondent dated 04.12.2002 quash the same in so far as it relates to denial of 75% of backwages and pass in orders directing the 1st respondent to pay the petitioner entire backwages.

PRAYER in W.P.No.25169 of 2011: Writ Petition filed under Article 226 of Constitution of India praying for, issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 2nd respondent in dated 25.08.2010 in C.P.No.1 of 2008 quash the same and direct the 1st respondent to pay the petitioner a sum of Rs.8,47,701.00/- in terms of the claim petition filed by the petitioner with interest.



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For Petitioner : V.Selvaraj
in both W.Ps

For Respondents : M/s.Rita Chandrasekar
in both W.Ps for M/s.Aiyar and Dolia

COMMON ORDER

The learned counsel for the petitioner submitted that the writ petitioner was joined as a helper in the first respondent company and got promoted as C-Grade Operator and later, he became B-Grade Operator. Whiles, the writ petitioner was charge-sheeted along with six other employees for alleged misconduct of conducting a meeting within the company premises without getting prior permission from the management. According to the writ petitioner, the workmen who were all participated in the meeting were retained into the service and he was the only one dismissed from service on 17.08.1985. Challenging the order of dismissal, the writ petitioner raised an Industrial Dispute in I.D.No.31 of 1992 before the Labour Court, Coimbatore. The Labour Court, Coimbatore, passed an award dated 04.12.2002, directed the second respondent to reinstate the writ petitioner into service with 25% of the backwages. However, the writ petitioner was reinstated into service only on 29.04.2004 and superannuated on 30.11.2004. Aggrieved by the



aforesaid order dated 04.12.2002, the writ petitioner filed a writ petition in W.P.No.27280 of 2005.

2. The learned counsel further submitted that the writ petitioner filed a Computation Petition in C.P.No.1 of 2008 before the second respondent, claiming a sum of Rs.8,47,701.00/- towards arrears of salary and other benefits due on terms of my work and the second respondent in its order dated 25.08.2010, directed the first respondent to pay a sum of Rs.748/- with 9% interest towards the arrears of salary. Aggrieved over the same, the writ petitioner filed a writ petition in W.P.No.25169 of 2011.

3. The learned counsel contended that if the writ petitioner continued in service, he would have entitled for the benefits like revised wages, yearly increment, revised dearness allowance including leave encashment and bonus. However, the writ petitioner was kept out of service illegally. He further contended that the writ petitioner is entitled to be treated as an employee, who was in service without any break with 25% backwages and continuity of service and also entitled for revised pay and all other monetary benefits which were given to other employees.



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4. The learned counsel appearing for the respondent submitted that the first respondent company was closed in the year 2009 and the Claim Petition No.114 is pending before the National Company Law Tribunal, Chennai. Therefore, the petitioner has to get impleaded in the proceedings of the National Company Law Tribunal and whatsoever the claim petition against the first respondent by filing claim petition for the same.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. In the present case on hand, the writ petitioner filed I.D.No.31 of 1992, challenging the order of dismissal dated 18.07.1985 and for the said order, the Labour Court, Coimbatore passed an award dated 04.12.2002 by directing the first respondent to reinstate the petitioner into service with 25% of backwages. However, the writ petitioner was reinstated into service only on 29.04.2004 and superannuated on 30.11.2004. Whiles, the first respondent



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company was closed in the year 2009 and the Claim Petition No.114 is pending before the National Company Law Tribunal, Chennai.

7. In view of the above, the writ petitioner is directed to approach the National Company Law Tribunal, Chennai by way of filing appropriate petition and work out his remedy in the manner known to law. Thus, no further adjudication needs to be entertained in respect of the grounds raised in these writ petitions. In the result, these writ petitions are disposed off. No costs.

01.08.2022

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Index:Yes/No

Speaking Order/Non-Speaking Order

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J.SATHYA NARAYANA PRASAD,J.

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