



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.22434 of 2012

N. Rajamani

...Petitioner

vs.

1. The Presiding Officer,
Cuddalore Labour Court,
Cuddalore.

2. Management,
Auro Food Limited,
Thiruchitrambalam,
Vanur Taluk,
Villupuram District.

...Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, after calling for the concerned records from the 1st respondent, quash the order of the 1st respondent Labour Court dated 02.07.2007 in I.D.No.145 of 2003 holding that the enquiry conducted is fair and proper and the award dated 05.10.2010 in I.D.No.145 of 2003 passed by the 1st respondent Labour Court in so far as denying the relief of full back wages, continuity of service and all other attendant benefits and consequently direct the 2nd respondent to pay the full back wages from the date of dismissal viz., 21.02.2003 to 31.05.2008 being the date when the petitioner attained age of superannuation with continuity of service and all other attendant benefits.

For Petitioner : Mr.Balan Haridas

For Respondents : Labour Court - R1
Mr.D.S.Thirumavalavan for R2

O R D E R

This Writ Petition is filed challenging the order of the Labour Court whereby the petitioner was found to be entitled to 25% of the backwages on the basis of the last drawn monthly salary from the date of dismissal i.e., 21.02.2003, till the date of his retirement or attaining the age of superannuation,



the Labour Court also found that the petitioner is not entitled to reinstatement with continuity of services.

2. The petitioner had joined the 2nd respondent/management in the year 1976. During the year 2001 about 115 employees were working, the respondent/Management proposed/promoted the Voluntary Retirement Scheme. Though a number of workmen/employees opted under Voluntary Retirement Scheme the petitioner and a few others did not opt.

3. An order of dismissal dated 21.02.2003 came to be passed on the premise that the petitioner was involved in a fight with the security on 17.12.2002 at 8.00 clock and thereafter along with his friends had physically assaulted the security and prevented other workers from entering the Respondent/Mill. Further the petitioner had entered the Manager's room and after occupying his chair had abused him.

4. The petitioner submitted that the above action of the Respondent/Management was tainted by malafides and the petitioner was victimized as he had not opted for Voluntary Retirement Scheme which was proposed by the Respondent/Management. Aggrieved by the same the petitioner filed an appeal before the Labour Court, on examination of the evidence the Industrial came to the conclusion that despite the petitioner being ready and willing to work and being present and reporting for work the Respondent/Management refused employment/work. It was further found by the Labour Court that mere use of abusive language may not justify dismissal of a workmen. After finding that the punishment of dismissal was disproportionate, however finding that the petitioner had attained the age of Superannuation and thus cannot be re-instated directed that the petitioner would be entitled to 25% of back wages on the basis of last drawn monthly salary from the date of dismissal on 21.02.2003 till the date of his retirement on attaining the age of superannuation.

5. It is submitted by Mr.Balan Haridas, learned counsel appearing for the petitioner that the petitioner has now attained the age of superannuation, therefore, the question of reinstatement may not arise. It is further stated that the order insofar as 25% of the backwages is concerned has attained finalty in view of the fact that the respondents have not chosen to challenge the same. Consequently, a sum of Rs.71,098/- has become due, pursuant to the order of the Labour Court dated 05.10.2010. It is submitted that despite the fact that it is more than 12 years since the order of the Labour Court came to be passed, consequent to which an amount of Rs.71,098/- has become due, the same has not been paid by the Management/Respondent.



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6. Mr.D.S.Thirumavalavan, the learned counsel appearing for the 2nd respondent would admit that the Labour Court award has not been challenged, thus the same has attained finality insofar as 25% of the backwages is concerned.

7. Though, in the writ petition the order of the Labour Court has been challenged as perverse, it was submitted by Mr.Balan Haridas, learned counsel for the petitioner that the petitioner is seriously ill and does not even have the requisite funds for his medical treatment and would further submit that applying the doctrine of proportionality, it is submitted by Mr.Balan Haridas, that this Court may consider enhancing the Labour Court award directing payment of 25% of the backwages to the petitioner, taking into account the fact that the petitioner has superannuated and also his present medical condition. It is trite law that quantum of punishment falls within the exclusive jurisdiction of the disciplinary authority and Court would exercise restraint and would not interfere unless the punishment shocks the conscience of this Court.

8. Keeping the above principle in mind, and also the fact that the labour Court has found that the punishment is disproportionate and liable to be set aside, apart from the fact the petitioner's ailment, this Court is of the view that the ends of justice would be met if 25% of the backwages is paid along with 6% interest from the date of the order of the Labour Court i.e., 05.10.2010.

9. In view of the above, the Management/Respondents is directed to remit a sum of Rs.71,098/- (Rupees Seventy One Thousand and Ninety Eight only) along with interest at 6% from the date of the order of the Labour Court i.e., 05.10.2010, to the account of the petitioner, within a period of three (3) weeks from the date of receipt of a copy of this order.

10. With the above direction, this Writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Gv



To:

1. The Presiding Officer,
Cuddalore Labour Court,
Cuddalore.
2. Management,
Auro Food Limited,
Thiruchitrambalam,
Vanur Taluk,
Villupuram District.

+1cc to Mr.D.S.Thirumavalavan, Advocate, S.R.No.27467

+1cc to Mr.Balan Haridas, Advocate, S.R.No.27214

W.P. No.22434 of 2012

SMI (CO)
SU (26/04/2022)