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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21361 of 2015

A.Surendra Kumar

...Petitioner

-Vs-

1.The Labour Court,
Coimbatore.

2.M/s.Together Textile Mills India
Private Limited,

Rep. by its General Manager-Ravi K.Shetty,
Reg. Office, S.F.No.460/3B, 461/2A, 461/2B,
Somayampalayam Village,
Kanuvai, Coimbatore - 641 108.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records pursuant to the award passed by the 1st respondent in I.D.No.76 of 2005 dated 30.07.2013, quash the same and consequently direct the 2nd respondent/Management to pay entire back wages to the petitioner.

For Petitioner : Mr.G.B.Saravanabhavan

For R1 : Labour Court

For R2 : Mr.S.Bazeer Ahamed

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The learned counsel appearing for the second respondent/Management submitted that they have no instructions from their client.

3. The learned counsel for the petitioner/workman, who has challenged the Award, insofar as denial of back wages is



follows:-

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"19. Awarding compensation to an amount of Rs. 2 lakhs to the workman by the High Court in lieu of reinstatement of the appellant-workman along with 50% back wages is once again contrary to the well settled principles of law as has been laid down by this Court in a catena of cases, particularly, the case of Punjab Land Development and Reclamation Corporation. Ltd. v. Presiding Officer, Labour Court, wherein the Constitution Bench held that the order of termination simpliciter has to be held bad in law for non-compliance of the mandatory requirements provided under the Act and further held that the order of termination will be rendered void-ab-initio in law and therefore, the workman is entitled for all benefits for which he is legally entitled to in law.

20. The High Court has exceeded in its jurisdiction in setting aside the Award passed by the Labour Court in awarding reinstatement of the appellant-workman in his post along with 50% back wages which is erroneous in law as the High Court has not noticed the fact that the appropriate Government has referred the dispute to the Labour Court for its adjudication on the points of dispute referred to it. Since, there was non-compliance of the mandatory requirements as provided under the provisions of the Act by the respondent-firm at the time of passing an order of termination against the appellant-workman, therefore, the same has been held to be bad in law and as such it should have awarded full back wages to the workman from the date of termination till the date of passing the Award unless the employer proves that the workman was gainfully employed during the aforesaid period which fact is neither pleaded nor proved before the Labour Court."

7. While applying the principles laid down in the aforesaid decisions and by taking into account that the Labour Court has declared the workman's termination as illegal, he would be entitled for payment of full back wages.

8. Accordingly, the impugned Award dated 30.07.2013 passed by the Labour Court, Coimbatore in I.D.No.76 of 2005, is modified to the effect that the petitioner would be entitled for



full back wages, together with continuity of service and other attendant benefits. The Writ Petition stands thus allowed. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

hvk

To

The Labour Court, Coimbatore.

+1cc to Mr.G.B.Saravanabhavan, Advocate, S.R.No.21443

W.P.No.21361 of 2015

RP (CO)
SB (18/04/2022)