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W.A.Nos.1059 and 1060 of 2014 & 561 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2022

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.Nos.1059 and 1060 of 2014 and 561 of 2015, M.P. Nos.
1, 1 of 2014 and 1 of 2015 and C.M.P. No.4999 of 2017

The Management of
Sundaram Fasteners Ltd., ... Appellant in W.A. Nos.1059 and 1060 of
Harita, Hosur 635 109. 2014 and R2 in W.A. No.561 of 2015

vs

1.The Presiding Officer,
Labour Court, Salem. ... R1 in all cases

2.R.Balasubramanian ... R2 in W.A. Nos.1059 and 1060 of 2014
and appellant in W.A. No.561 of 2015

Prayer in all cases: Writ Appeals filed under clause 15 of the Letters
Patent Act against the order dated 09.04.2014 passed in W.P.
Nos.35922 of 2003 and 29240 of 2004 by the Workman and the
Management respectively.

For Appellant in W.A. Nos.1059 & 1060 :Mr.T.Anand Gopalan
of 2014 and R2 in W.A. No.561 of 2015 for M/s.T.S.Gopalan
and Co.

For R2 in W.A. Nos.1059 & 1060 of 2014
& appellant in W.A. No.561 of 2015 :Mr.C.K.Chandrasekar
R1 - Court

COMMON JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

For the sake of convenience, the appellant in W.A. Nos.1059 &



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1060 of 2014 & R2 in W.A. No.561 of 2015 and R2 in W.A. Nos.1059 & 1060 of 2014 & appellant in W.A. No.561 of 2015 are referred to as 'the Management' and 'the Workman' respectively.

2.Challenging the order dated 09.04.2014 passed in W.P. Nos.35922 of 2003 and 29240 of 2004, the Workman and the Management respectively have filed these writ appeals.

3.Learned counsel appearing for the Management submitted that the Workman has been appointed as 'Work Apprentice' in the Management with effect from 18.04.1983 for a period of one year and in order to encourage and motivate senior workmen to acquire higher responsibility and position, the Management called applications from senior workmen for the position of Cell Leader. Since the Management got a letter from its Hyderabad Division that they require an experienced person for their Powder Unit to look after production, quality and for despatch of powder from their plant, they decided to select a right person to serve the post in Hyderabad Division. Though the Workman initially accepted the transfer and sought time till 18.11.1995, he refused to accept the same at the later stage. Therefore, the Management was forced to take a decision to dismiss him from service for the disobedience of the order of the



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Management, after conducting domestic enquiry in this regard. When the Workman raised an Industrial Dispute in I.D. No.428 of 1998, the Labour Court, Salem, by Award dated 27.05.2003, while dismissing the same, directed the Management to pay an amount of Rs.50,000/- towards compensation to the Workman within a period of three months. Aggrieved by the same, the Management has filed the above writ petition in W.P. No.29240 of 2004. Since the learned Single Judge directed the Management to reinstate the Workman with continuity of service and other attendant benefits, the Management is before this Court with the above writ appeals in W.A. Nos.1059 and 1060 of 2014. Learned counsel for the Management further submitted that as the Workman did not obey the order of the Management, the termination order has been issued to him, after conducting domestic enquiry, in which the Enquiry Officer had conducted an enquiry as per the principles of natural justice. Though he has come forward to accept two promotions in the earlier stage, he has refused to accept the promotion as Cell Leader because of the transfer. Therefore, he cannot put the blame on the Management, which has provided sufficient opportunity to the Workman to prove his claim.

4.Learned counsel for the Workman submitted that the Workman joined the Management vide order dated 08.04.1983 as a



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Trainee on 18.04.1983 and he got promotion from time to time.

While so, the Management, by creating a new post called 'Cell Leader', had invited the applications from the eligible persons through Notification dated 07.08.1995. Though the Workman refused to accept the promotion granted by the Management, by order dated 04.11.1995 the Management had transferred the Workman from Hosur to Hyderabad Unit. Since the Workman refused to receive the same, by order dated 05.09.1996, the Management terminated him from service. Aggrieved by the said order, the Workman filed I.D. No.428 of 1998 before the Labour Court, Salem seeking a direction to the Management to reinstate him into service in the Hosur Unit with the continuity of service and back wages with all other attendant benefits alleging that the act of Management, terminating the workman, is against law and principles of natural justice. When the Workman has prayed for reinstatement into service in the Hosur Unit with continuity of service and back wages with all other attendant benefits, the Labour Court, Salem has directed the Management to pay only an amount of Rs.50,000/- towards compensation. Aggrieved by the same, the Workman has filed the above Writ Petition in W.P. No.35922 of 2003. Although the learned Single Judge has directed the Management to re-instate the Workman with continuity of service and other attendant benefits, refused to give back wages. Therefore,



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Workman is before this Court with the above writ appeal in W.A. No.561 of 2015.

5.Heard the parties on both sides.

6.It could be seen from records that the Workman has been appointed as 'Work Apprentice' in the Management with effect from 18.04.1983 for a period of one year. Since the Management got a letter from its Hyderabad Division that they require an experienced person, the Management decided to transfer the Workman from Hosur to Hyderabad Division. Though the Workman initially accepted the transfer and sought time till 18.11.1995, he refused to accept the same at the later stage. Therefore, the Management dismissed the Workman from service for the disobedience of the order of the Management, after conducting domestic enquiry in this regard. Challenging the dismissal order, the Workman raised an Industrial Dispute in I.D. No.428 of 1998 before the Labour Court, Salem seeking a direction to the Management to reinstate him into service in the Hosur Unit with the continuity of service and back wages with all other attendant benefits alleging that the act of Management



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terminating the workman is against law and principles of natural justice and the Labour Court, Salem, by Award dated 27.05.2003, while dismissing the same, directed the Management to pay an amount of Rs.50,000/- towards compensation to the Workman within a period of three months. Aggrieved by the same, the Workman and the Management have filed the above writ petitions in W.P. Nos.35922 of 2003 and 29240 of 2004. Since the learned Single Judge directed the Management to reinstate the Workman into service with continuity of service and other attendant benefits, the Management is before this Court with the above writ appeals in W.A. Nos.1059 and 1060 of 2014. As the learned Single Judge has directed the Management to re-instate the Workman with continuity of service and other attendant benefits and refused to give back wages, the Workman is before this Court with the above writ appeal in W.A. No.561 of 2015.

7.During the course of argument, considering the fact that the Workman was left with 22 months of service on the date of passing the order of re-instatement by the learned Single Judge and in the year 1996, the Workman has got the last drawn salary of Rs.4,600/-, to serve the purpose of the Workman and to give a quietus to the matters, when we are inclined to fix a sum of Rs.8,00,000/- as full



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and final settlement to be payable by the Management to the Workman, the same is accepted by both the learned counsel. Therefore, the Management is directed to pay a sum of Rs.8,00,000/- as full and final settlement to the Workman either to give a Demand Draft in favour of the Workman/to send the same to the correct address of the Workman or to deposit a sum of Rs.8,00,000/- to the credit of I.D. No.428 of 1998 before the Labour Court, Salem within a period of two weeks from the date of receipt of a copy of this order and on such deposit, the Labour Court, Salem is directed to re-deposit the amount in a Fixed Deposit Account in any Nationalised Bank. With the above directions and observations, these writ appeals are disposed of. Consequently, connected miscellaneous petitions stand closed. No costs.

[T.R.,J.] [P.D.A.,J.]
06.09.2022

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To

The Presiding Officer,
Labour Court, Salem.



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