



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3134 of 2014

The Management of Droog Division,
Non-Such Tea Estates,
Coonoor - 643 103.

...Petitioner

Vs

1. T.Aruldoss

2. The Presiding Officer,
Labour Court, Coimbatore.

...Respondents

PRAYER:Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 2nd respondent dated 25.02.2013 made in I.D.No.335 of 2006 and quash the same.

For Petitioner : Mr.Krishna Prasad
for M/s.Sarvabhauman Associates

For Respondents: Mr.C.Murugesan [For R1]
Labour Court (For R2)

O R D E R

The award dated 25.02.2013 passed in I.D.No.335 of 2006 is under challenge in the present writ petition.

2.The petitioner Management filed the writ petition quashing the award on the ground that the petitioner has not initiated any disciplinary proceedings against the workmen at any point of time. The workmen committed a lapse while operating the generator maintained in the Estate and due to the lapses, the generator became fault.

3.However, the learned counsel for the petitioner made a submission that the Management has not taken any action against the workmen nor a charge memo or otherwise had been issued against him, contrarily the workmen remained unauthorisedly absent from reporting duty and thereafter approached the Labour Court by raising a dispute. Even before the Labour Court, the petitioner Management had pleaded that they have not initiated any disciplinary proceedings and the petitioner Management is



ready to reinstate the workmen in service. The Labour Court also passed an award of reinstatement with the backwages of 25%. Challenging the said award, the present writ petition is filed.

4.The learned counsel for the writ petitioner contended that even in the affidavit filed in the present writ petition, the petitioner Management has expressed their willingness to take back the workmen into service and he was also informed about the same. In spite of the fact that the petitioner is ready to reinstate the workmen in service, the workmen remained absent intentionally and therefore, he is not entitled for any backwages. Even now the petitioner Management is ready to reinstate the workmen and they have no objection for such reinstatement with continuity of service and current wages as applicable to the post in which the workmen was working during the relevant point of time.

5.The learned counsel appearing for the first respondent workmen made a submission that the Labour Court awarded 25% backwages which is to be settled in favour of the workmen. Regarding the reinstatement, the learned counsel for the first respondent has no instructions about the willingness of the workmen to join duty.

6.Considering the facts and circumstances, this Court is of the considered opinion that the Labour Court had committed an error in awarding 25% of backwages in view of the fact that the Management had expressed its willingness to take back the workmen into service right from the beginning both before the Labour Court and before this Court. When the petitioner Management in their affidavit have categorically stated that they are willing to reinstate the workmen right from the beginning and the workmen remained absent and not reported for duty, the award of backwages is not in consonance with the established principles. However, the award of reinstatement is to be confirmed as the petitioner Management itself is ready and willing to reinstate the workmen.

7.For all these reasons, the impugned award dated 25.02.2013 passed in I.D.No.335 of 2006 stands confirmed with reference to the reinstatement and quashed regarding the backwages of 25% awarded. Accordingly, the writ petition is partly allowed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

cse



To

The Presiding Officer,
Labour Court,
Coimbatore.

WEB COPY

+1cc to M/s.Sarvabhauman Associates, Advocate, S.R.No.35706

W.P.No.3134 of 2014

PL (CO)
RGA (24/06/2022)