



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.09.2021

PRONOUNCED ON : 19.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.29305 of 2014
and M.P.No.1 of 2014

The Management,
Manson Enterprises (India) Pvt. Ltd.,
G-5, Phase VIII,
Sidco Industrial Estate,
Hosur-635 126.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Salem.

2.V.Venkatraj

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records in I.D.No.95 of 2003 on the file of Labour Court, Salem the first respondent herein, to quash the award dated 14.02.2013 (sent on 02.05.2013) passed therein.

For Petitioner : Mr.M.R.Raghavan

For Respondent-2 : No Appearance

For Respondent-1 : Labour Court

O R D E R

Heard the learned counsel for the petitioner.

2. The brief facts of the case are as follows:-

The award of the Labour Court, Salem, directing reinstatement of the second respondent back into services together with 40% back wages in I.D.No.95 of 2003 dated 14.02.2013, is challenged by the Management in the present Writ Petition.



3. The learned counsel for the petitioner submitted that though the second respondent herein was a regular operator under them, he had resigned from the services on 24.06.2002, which was accepted by them on 28.06.2002. When the Management had sent the full and final settlement, he had refused to accept the same and returned the postal cover. In this background, there was a conciliation raised and the second respondent had received a sum of Rs.24,000/- on 10.12.2003, as a full and final settlement of all his dues. In the meantime, he had already filed a claim petition before the Labour Court, Salem on 26.02.2003, falsely alleging that the Management had promised him to give a sum of Rs.3 lakhs under a Voluntary Retirement Scheme (VRS) and had also obtained his signature and thumb impression in a blank sheet of paper. The Labour Court, Salem, however had not appreciated the facts of the case properly, as well as the evidences and passed the impugned award dated 14.02.2013. The learned counsel further added that there was no VRS under them since the Company itself, was in a financial crisis and the fact remains that, pending the Industrial Dispute, the second respondent had received the full and final settlement, which documents were marked before the Labour Court, Salem.

4. Though notice has been served on the second respondent and his name was printed in the cause list, none appears on his behalf.

5. The Labour Court, while awarding reinstatement of the petitioner with 40% of back wages, had predominantly arrived at a conclusion on presumptions and surmises. Though the Labour Court had recorded that the second respondent had admitted his signature in the resignation letter, had observed that since the acceptance of the resignation, which was sent by postal cover was returned within 5 days by the second respondent, he may not have voluntarily resigned from the Company. The further presumption made was that, since the petitioner used his thumb impression in the resignation letter he must have been illiterate and therefore, there was a possibility that the resignation letter could have been forged by the Management. Such presumptions and surmises in an award for the purpose of discarding the key evidence produced by the Management, namely, the resignation letter, is impermissible. The Labour Court had also observed in the award that the resignation letter creates a suspicion since the workman was required to give one month notice prior to his resignation, which was not done and the Management has also accepted the same. The law requires that when the Labour Court intends to reinstate a dismissed workman, the same should be done only on the basis of well established evidences and not on the presumptions and surmises. The Labour Court had also failed to take into account of Ex.M6, which is the receipt of the full and final settlement made to the second



respondent herein towards his dues. Above all, the very claim of the second respondent seems to be that he was promised a sum of Rs.3 lakhs under the Voluntary Retirement Scheme and this aspect was also not addressed by the Labour Court. Thus, the reasonings adduced by the Labour Court for the purpose of reinstating the petitioner together with 40% back wages, does not seem to be justifiable.

6. For the foregoing reasons, the impugned award dated 14.02.2013, passed by the learned Judge, Labour Court, Salem in I.D.No.95 of 2003, is quashed. Consequently, the Writ Petition stands allowed. Connected Miscellaneous Petition is also closed. There shall be no orders as to costs.

7. At this juncture, the learned counsel for the petitioner would submit that pursuant to the interim orders of this Court, dated 24.11.2014 passed in M.P.No.1 of 2014 in W.P.No.29305 of 2014, they have deposited the entire back wages before the Labour Court, Salem. In view of the present order of quashing the award of the Labour Court, the petitioner would be entitled to withdraw the entire amount deposited by them along with accrued interest before the Labour Court, on making appropriate application. The Labour Court shall endeavor to pass necessary orders, permitting the petitioner to withdraw the deposited amount along with accrued interest, preferably, on the same day of the application.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

DP

To

The Presiding Officer,
Labour Court,
Salem.

+1cc to Mr.M.R.Raghavan, Advocate, S.R.No.2899

W.P.No.29305 of 2014
and
M.P.No.1 of 2014

SMI (CO)
CB(04/02/2022)