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W.P.No.44 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.44 of 2021

and

W.M.P.Nos.5910, 5901, 5899, 5896, 5895, 5905, 5898, 5903, 5900, 5902,
5913, 5918, 5922, 5933 and 5935 of 2022

The Management,
M/s.CMR Toyotsu Aluminium India Private Limited,
A4 & A5, SIPCOT Industrial Park,
Pillaipakkam, Sriperumbudur,
Kancheepuram District - 602 105.

... Petitioner

Vs.

1.R.Boobalan
2.R.Sivakumar
3.E.Murugan
4.G.P.John Fernandas
5.D.Balakrishnan
6.P.Rajesh
7.M.Ramesh Raju
8.K.Lakshmanan
9.A.Ganesh
10.S.Karthick
11.N.Udhayakumar

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to I.D.Nos.599 of 2018 to 609 of 2018 dated 18.03.2020 on the file



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of the Principal Labour Court, Kancheepuram and quash the same and pass such further order.

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For Petitioner : Ms.S.Thamizharasi

For Respondents : Mr.S.Kumaraswamy
for M/s.K.Bharathi

ORDER

This Writ Petition has been filed, challenging the common award passed by the Principal Labour Court, Kancheepuram in I.D.Nos.599 to 609 of 2018 dated 18.03.2020, under which the termination of the respondents has been set aside and the petitioner Management was directed to reinstate all the eleven workmen with continuity of service and full backwages.

2. The petitioner has challenged the impugned common award on the ground that the strike declared by the Trade Union, representing the respondents, is illegal and therefore, the termination of the respondents by the petitioner Management is legal. The following are the undisputed facts:

a) The petitioner Management has not let in any oral evidence before the Labour Court. The learned counsel for the petitioner Management before the Labour Court has made an endorsement that the petitioner Management



is not letting in any oral evidence. The same has also been recorded under the impugned Labour Court award;

b) The petitioner Management has filed only one document on their side before the Labour Court which is a xerox copy of the letter from the petitioner Management to the respondents dated 02.03.2017 which has been marked as Ex.M1. The said letter is an undertaking sought for by the petitioner Management from the respective respondents for rejoining duty with the petitioner Management;

c) On two occasions before the Labour Court, the petitioner Management failed to pay a cost of Rs.500/- which was imposed by the Labour Court for reopening and recalling the petitioner Management's evidence;

d) The petitioner had filed Writ Petition in W.P.No.945 of 2020, seeking for a direction to the Labour Court to reopen the evidence on the side of the petitioner and to permit them to let in oral evidence. By order dated 21.01.2020 passed in W.P.No.945 of 2020, the learned Single Judge of this Court, after observing that the petitioner Management did not pay the cost imposed by the Labour Court and after recording the fact that the petitioner Management through their counsel has made an endorsement



before the Labour Court that the petitioner side evidence may be closed and also after observing that several adjournments were sought for by the petitioner Management, dismissed the Writ Petition and held that the Labour Court was justified in rejecting the petitioner's interim application, seeking to reopen the evidence on the side of the petitioner Management. Admittedly, the said order has attained finality as no Writ Appeal has been filed by the petitioner Management, if aggrieved by the said order.

3. The Letter of undertaking was sought for by the petitioner Management from the respective respondents dated 02.03.2017 which is marked as Ex.M1. Admittedly, the Letter of Undertaking contains various undertakings that the respective respondents will have to give in favour of the petitioner Management for rejoining duty. The conditions include the following:

a) I am involved in un-just strike from to I realize my mistake and return to duty. I request you to allow me to join duty.

b) I will not claim wage for the strike period at any point of time, based on the principle of No Work - No Pay.



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4. The respective respondents aggrieved by the said conditions, referred to supra, have also responded to the same and they have categorically stated that they will not be giving the undertaking with regard to the aforementioned conditions but they are prepared to give undertaking in respect of twelve of the conditions out of the fourteen. The receipt of the said letter is also not disputed by the petitioner Management.

5. Admittedly, subsequent to the filing of this Writ Petition, the respondents have been reinstated into service by the petitioner Management from 04.11.2022 without prejudice to their rights and contentions in this Writ Petition.

6. The Labour Court under the impugned common award has given the following findings:

a) In order to establish the case of the petitioner Management that they are a public utility service they have not let in any evidence and therefore, their contention has to be rejected;

b) The strike declared by the respondents is legal. The petitioner Management has not brought anything on record to show that the notice and



the strike were illegal;

c) The Management had required a Letter of Undertaking from the workmen which is an unfair labour practice as prescribed under Part-I (8) of the Schedule - V of the Industrial Disputes Act. The said Letter of Undertaking would amount to unfair labour practice. Part-I (8) of the Schedule - V of the Industrial Disputes Act reads as follows:

"8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work. "

7. As seen from the undisputed facts recorded supra, as well as from the findings of the Labour Court, it is clear that despite several opportunities having been granted to the petitioner Management to disprove the claim of the respondents / employees, they have neither made use of those opportunities nor have they let in any evidence to disprove the claim of the respondents that the termination is arbitrary and illegal. Infact, the petitioner Management through their counsel has admittedly made an endorsement in the Court bundle of the Labour Court proceedings that the petitioner Management's evidence may be closed and the same was also recorded by



the Labour Court. The petitioner's request for reopening and recalling evidence on their side was rejected by the Labour Court which was also confirmed by this Court in the Writ Petition filed by the petitioner Management by order of this Court dated 21.01.2020. The said order passed by this Court in W.P.No.945 of 2020 has also attained finality as no Writ Appeal has been filed by the petitioner Management, if aggrieved by the same.

8. The respondents have also been reinstated into service without prejudice to the rights and contentions of the petitioner Management, but that cannot be a reason for this Court to interfere with the impugned Labour Court award that too when the petitioner Management has miserably failed to produce any iota of evidence to substantiate their contention that the strike declared by the Trade Union on behalf of the respondents is illegal. This Court is not an Appellate Court and only in cases where it is found that the Labour Court award is perverse, arbitrary and illegal, this Court exercising powers under Article 226 of the Constitution of India can interfere. This Court does not find any scope for interference in the impugned Labour Court award. There is no merit in this Writ Petition.



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9. Accordingly, this Writ Petition is dismissed. No Costs.

Consequently, the connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking Order : Yes / No
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ABDUL QUDDHOSE. J.,

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