



W.P.(MD).No.18014 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.12.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.18014 of 2014

and

M.P.(MD).No.1 of 2014

The Management,
M/s. Arignar Anna Sugar Mills,
Kurungulam Post,
Thanjavur District.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The Secretary (INTUC),
Arignar Anna Sugar Mills,
Thozhilalar Sangam,
Vallam Post,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the award dated 10.07.2014 in I.D.No.43/2001 and to quash the same.



W.P.(MD).No.18014 of 2014

For Petitioner : Mr.K.Saravanan

For R-1 : Labour Court.

For R-2 : M/s.J.Shakila

ORDER

This Writ Petition is filed to quash the award dated 10.07.2014 in I.D.No.43/2001.

2. The second respondent is a Union representing one of its members namely, Sivasamy. The said Sivasamy actually joined the duty as Seasonal Mazdoor on 04.02.1980, whereas, in the seniority list it is wrongly entered as 01.02.1980. While his name was considered for granting permanent Mazdoor, his seniority was taken into account based on the wrong entry in the seniority list. Since complaints were received from the various public authorities and the individuals, questioning the seniority of the second respondent. Thereafter, the petitioner's Mill had scrutinized the records found that the second respondent has actually joined duty on 04.02.1980 only. On that seniority date, the second respondent could not get any promotion as permanent Mazdoor. Therefore, he



W.P.(MD).No.18014 of 2014

was demoted to his original post viz., Seasonal Mazdoor. The second respondent has not challenged the seniority list before any authority but has preferred the petition claiming seniority. The dispute was referred to the Labour Court by G.O.Ms.No.223 dated 30.03.2001. The contention of the petitioner is that an opportunity was granted to the second respondent before demoting himself to the Seasonal Mazdoor. The second respondent has not availed the opportunity. This has been recorded in the award of Industrial Dispute also. The petitioner mill has issued 2 memos dated 28.08.1997 and 12.03.1998 directing the second respondent to produce evidence to prove his contention that he joined duty on 01.02.1980. However, the second respondent has not submitted any reply. The Labour Court has marked the said evidence as Management witness No.9 and 10. In spite of the same, the Labour Court has held that the demotion is erroneous since the demotion order is passed without any show cause notice to the 2nd respondent and hence the Labour Court directed to award promotion by keeping the date as 01.02.1980. Since the petitioner mill has not issued show cause notice, will not confer any right to the employee to get promotion. Moreover, the Labour Court has categorically held that the attendance register and salary register indicates that the employee had joined only on 04.02.1980. It is only because show cause notice was not issued



W.P.(MD).No.18014 of 2014

before reverting the employee, the impugned order is passed. Therefore, this Court is of the considered opinion that the Labour Court has erroneously come to the conclusion that the second respondent is entitled to promotion by keeping 01.02.1980 as the date of joining.

3. Therefore, the Labour Court award is set aside. The petitioner mill shall issue notice of enquiry, the second respondent is directed to attend the enquiry. The petitioner shall conduct an enquiry and thereafter shall pass orders within a period of four (4) weeks from the date of receipt of a copy of this order.

4. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

20.12.2022

Index : Yes / No
Internet : Yes/ No
Nsr



W.P.(MD).No.18014 of 2014

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W.P.(MD).No.18014 of 2014

S.SRIMATHY, J.

Nsr

W.P.(MD).No.18014 of 2014

20.12.2022