



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.17648 to 17664 and 23069 to 23085 of 2016,

and

W.M.P.(MD)Nos.16527, 16529, 16531, 16533,

16535, 16537, 16539, 16541, 16543,

16545, 16547, 16549, 16551, 16553, 16555,

16557 and 16559 of 2016

W.P.(MD)No.17648 of 2014:

R.Amulraj

... Petitioner

vs.

1.The Presiding Officer,
Labour Court,
Tiruchirappalli.

2.The Management,
Maris Spinners Limited Unit II,
Kulithalai Road,
Manapparai-621 306,
Tiruchirappalli District.

... Respondents



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the common award, dated 07.11.2012, passed in I.D.No.101 of 2009 and in I.A.No. 170 of 2012 by the 1st respondent in so far as the award of compensation from the date of illegal termination to the date of the impugned Common Award on 07.11.2012 instead of granting the relief of reinstatement with continuity of services back wages and other attendant benefits and to quash the same and consequently, to direct the 2nd respondent to reinstate the petitioner into his services with continuity of services, back wages and other attendant benefits as prayed for and award costs and interest.

In W.P.(MD)Nos.17648 to 17664 of 2016:

For Petitioner	: Mr.N.Balakrishnan
For R1	: Labour Court
For R2	: Mr.M.E.Ilango for Mr.G.Mohan Kumar

In W.P.(MD)Nos. 23069 to 23085 of 2016:

For Petitioner	: Mr.M.E.Ilango for Mr.G.Mohan Kumar
For R1	: Labour Court
For R2	: Mr.N.Balakrishnan



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

COMMON ORDER

The writ petition in W.P.(MD)No.23070 of 2016 is filed for issuance of a writ of Certiorari, to quash the order passed by the 1st respondent herein in I.A.No.178 of 2012 in I.D.No.93 of 2009 and consequential award in I.D.No.93 of 2009, dated 07.11.2012.

2.The Management has filed this writ petition challenging the order passed by the 1st respondent. The 2nd respondent herein has raised an Industrial Dispute seeking reinstatement with continuity of service, back wages and other consequential relief. The Management contested the claim. However, the 1st respondent has passed the impugned order setting aside the dismissal order against the 2nd respondent and directed the management to pay a lump sum of compensation equivalent to 25% of year salary, on the basis of last pay and allowances drawn by the workmen from the date of dismissal till the date of award along with PF and gratuity. Aggrieved over the same, the present writ



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

petition in W.P.(MD)No.23070 of 2016 is filed.

3. The 2nd respondent was dismissed from service on 09.02.2007 for the allegation that on 18.11.2004, the 2nd respondent along with his co-workers instigated and participated in an illegal, unjustified and unwarranted strike. The management had issued letters on 20.11.2004 and on 26.11.2004, advising the 2nd respondent to withdraw from the strike immediately. On 17.12.2004, at about 06.30 a.m., the 2nd respondent along with other co-workers quarreled with the security guard, used filthy language and threatened the security guard. The 2nd respondent created tense situation and threatened the female workers using filthy language. Hence, a charge memo was issued. After explanation, the management conducted domestic enquiry. Since the charges are proved, the petitioner was dismissed from service on 09.02.2007. Challenging the said order, the 2nd respondent has raised an industrial dispute. The 1st respondent has passed an order and has held that, on perusing the particulars of pleadings reveals that the management lost its confidence on the workmen because of the grave charges against the workmen. However, the dismissal order was not submitted before the appropriate authority to get approval. Since the petitioner management failed to obtain approval from the competent authority, the 1st respondent has allowed the industrial dispute raised by the workmen. The 1st respondent has also relied on the



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

judgment of the Honourable Supreme Court rendered in ***O.P.Bhandari Vs. Indian Tourism Development Corporation Limited*** reported in ***1987 S.C. 111*** instead of awarding reinstatement awarding compensation in lieu of reinstatement would meet the ends of justice. Hence, the 1st respondent has passed the common order in Interlocutory applications and the Industrial Dispute petitions. The relevant portion of the common order is extracted hereunder:

“In this view, the petitioners are entitled the restricted relief as prayed for.

The following common order is passed in Interlocutory Applications and Industrial Petitions

"In the result, all the interim applications are partly allowed and thereby all individual order of dismissal passed against the individual workmen / petitioners by the respondent / management is set aside as it is violative of section 33(2)(b) of the Industrial Disputes Act, 1947 and compensation is awarded in lieu of reinstatement on the order passed in Industrial Disputes.

All 18 Industrial Disputes are allowed and thereby the individual Order of dismissal passed by the respondent as against the individual workman is set aside as void.

The respondent is directed to pay each petitioners lump sum of compensation in lieu of reinstatement equivalent to 25% of the years salary (including allowances as admissible) on the basis of the last pay and allowances drawn by the petitioners from the date of dismissal to till the date of this order together with Provident Fund and Gratuity within a period of 60 days from the date of this order.



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

In case of default, the respondent is directed to pay the said amount with interest at the rate of 9% from the date of this order to till the date of realization.”

Aggrieved over the same, the management has preferred writ petition before this Court. Pending writ petition, it is submitted that the petitioner management has entered in 18(1) settlement on 25.07.2018 and 07.12.2018 with two workmen namely M.Velusamy and N.Shanmuganathan respectively who are petitioners/respondents in W.P.(MD)Nos.17654/23080 and 17658/23073 of 2016, which is not disputed. Hence, recording the same, those writ petitions are closed as no further adjudication is necessary.

4. Therefore, this Court is of the considered opinion that in order to meet the ends of justice a lump sum amount shall be fixed to all the workmen herein in all the writ petitions. It is seen from the records that all the workmen in the writ petitions have not attained superannuation. Therefore, the management has settled Rs.2,00,000/- for similarly placed persons who had worked in the mill.



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

Therefore, this Court is also fixing the same amount of Rs.2,00,000/- to the workmen in all the remaining writ petitions. The management shall pay the amount within the period of 12 weeks from the date of receipt of a copy of this order.

5. With the above said observation, the present writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes

16.11.2022

Tmg

To

The Presiding Officer,
Labour Court,
Tiruchirappalli.



WEB COPY



W.P.(MD)Nos.17648 to 17664
and 23069 to 23085 of 2016

S.SRIMATHY, J

Tmg

W.P.(MD)Nos.17648 to 17664 and
23069 to 23085 of 2016

16.11.2022