



W.P.No.12875 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.12875 of 2016 and
W.M.P.No.11240 and 11241 of 2016**

The Principal,
The Management of Bharathiar University
Science and Arts College,
Ammaikula, Gudalur,
Nilgiris.

... Petitioner

Vs.

1. M.Suganthi

2. The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the entire records pertaining to the order of the second respondent dated 19.03.2013 made in I.D.No.124 of 2010 on the file of the Labour Court, Coimbatore and quash the same.



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For Petitioner : Mr.L.Chandrakumar
for Mr.S.Saravanan

For Respondents : Mr.A.G.Abhishek for R1

ORDER

The petitioner is the Management of the Bharathiar University Science and Arts College, Kudalur, Niligiris. The present Writ Petition is filed challenging the award dated 19.03.2013 whereby the oral termination of the first respondent dated 02.12.2008 was set aside and the petitioner was directed to reinstate the first respondent into service with full backwages, continuity of service and other attendant benefits.

2. The learned counsel for the petitioner submits that the petitioner challenges the impugned award on the ground that the first respondent was engaged only as a daily wage employee. The Labour Court failed to consider that the petitioner University is not an industrial establishment and hence, the Industrial Dispute raised by the first respondent was not maintainable.



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3. The learned counsel for the petitioner further submits that the Labour Court has not considered the detailed written statement filed by the petitioner raising serious allegations against the first respondent which led to the termination. He further submitted that the first respondent was gainfully employed elsewhere after her termination and hence, the reinstatement and backwages awarded by the Labour court was not necessitated.

4. The learned counsel for the first respondent submits that the first respondent was not gainfully employed anywhere after her oral termination and that the petitioner Management had issued a Conduct Certificate dated 19.01.2007 stating that the conduct and the character of the first respondent is good. While so, the first respondent was denied employment with effect from 02.12.2008 which is self-contradictory. That apart, the petitioner Management has not issued any show cause notice nor conducted any enquiry before terminating the first respondent. He further submitted that the petitioner Management remained ex-parte before the



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Labour Court proceedings. Hence, the learned counsel for the first respondent seeks for dismissal of the Writ Petition.

5. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

6. It is not in dispute that the first respondent was engaged as a daily wage employee in the petitioner Management and that the employee was terminated after the disciplinary proceedings. Though the petitioner Management remained ex-parte before the Labour Court, the petitioner has enclosed documentary evidence with respect to the complaints given by the various other staff members against the first respondent and the report of the fact finding committee dated 21.10.2008. Placing reliance on the aforesaid documents, the learned counsel for the petitioner submits that the first respondent was rightly terminated in view of the delinquencies and the Labour Court had failed to consider the fact that the first respondent was a



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daily wage employee and the order of reinstatement with backwages and other attendant benefits is *per se* illegal and not sustainable. Though sitting under Article 226 of the Constitution of India, this Court cannot go into disputed question of facts. Since the petitioner Management was not given any opportunity before passing of the impugned order, this Court had to necessarily go into the facts and the documents enclosed along with the typedset of papers. At the time of filing of the Writ Petition, this Court vide order dated 06.04.2016 had granted an order of interim stay of the impugned award on condition that the petitioner Management deposits a sum of Rs.50,000/- to the credit of E.P.No.14 of 2015 in I.D.No.124 of 2010. It is now reported that the said amount of Rs.50,000/- has already been deposited before the Labour Court.

7. Considering the fact that the employee was terminated as early as in the year 2008 and this Court can safely presume that the first respondent would have been gainfully employed elsewhere all these years and also considering the fact that the said amount of Rs.50,000/- (Rupees



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Fifty Thousand only) has already been withdrawn before the Labour Court, this Court is inclined to pass the following orders:

(i) The impugned award dated 19.03.2013 passed by the second respondent is hereby set aside.

(ii) However, the petitioner Management is directed to pay a further compensation of Rs.1,00,000/- (Rupees One Lakh only) as full and final settlement to the first respondent employee within a period of two weeks from the date of receipt of a copy of this Corder.

8. With the above observations, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.07.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To
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Coimbatore.
2. The Principal,
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