



W.P.No.13022 to 13024 of 2016

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DATED : 04.07.2023

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.13022 to 13024 of 2016

E.Premkumar	...Petitioner in W.Pno.13022 of 2016
T.K.Baskar	...Petitioner in W.P.No.13023 of 2016
M.Arul	 Petitioner in W.P.No.13024 of 2016

Vs

1. The Management,
Bharat Textile Proofing Industries Ltd.,
Suravari Kandigai,
Sirupuzhalpetti Post,
Gummidipoondi Taluk,
Thiruvallur District.

2. The Presiding Officer,
First Additional Labour Court,
Chennai.

...Respondents in all the writ petitions

Common Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus Calling for the records from the second respondent pertaining to the award dated 17.11.2014.



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For Petitioner : M/s.T.P.Sekar (In all the petitions)

For Respondents : Mr.K.Rangesh
for M/s.Jayaraman Associates R1

ORDER

Since the issue involved in both the matters are one and the same and hence, both the writ petitions are disposed of by way of common order.

2. These writ petitions have been filed seeking to quash the common order passed by the second respondent pertaining to the award dated 17.11.2014.

3. The case of the petitioners is that they were appointed by the first respondent on 21.11.1995 and the first respondent entered into an agreement with the petitioners under Section 12(3) of the Industrial Disputes Act on 13.10.2000. The first respondent have not complied with the said 12(3) agreement, especially the Management have not enhanced the salary of employees for second year. Therefore, the petitioner union



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have initiated legal proceedings including arrears of salary by filing petitions under Section 33(c) of the Act, in accordance with 12(3) agreement. Aggrieved by the same, the Management charged 11 false allegations against the petitioners and appointed an enquiry officer. The enquiry officer conducted enquiry and submitted a report as if, the charges have been proved against the petitioners in all the petitions. Based on the enquiry report, the management have terminated the petitioners on 30.04.2004. Hence, the petitioners have raised an Industrial Dispute before the Assistant Commissioner of Labour-II, Chennai against the order of termination. After conducting enquiry, the second respondent passed an award in ID Nos.84, 85 & 86 of 2008 dated 17.11.2014 stating that the order of termination is set aside but misconceived the fact about criminal case and denied the order of reinstatement and directed the first respondent to pay the compensation to the petitioners. The second respondent has denied the order of reinstatement and awarded eager compensation to the petitioners. Aggrieved over the same, the petitioners have filed these writ petitions.



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4. The learned counsel for the petitioners submitted that no charge sheet laid against the petitioners for the past 12 years and no progress in the FIR against the petitioners. Therefore, the FIR should not be consider for denial of reinstatement and the first respondent has not proved the charges levelled against the petitioners. Therefore, denial of reinstatement is unsustainable one.

5. The learned counsel for the first respondent submitted that during pendency of these writ petitions, the first respondent company was closed and there is no instructions received from the first respondent.

6. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on records.

7. The facts of the case are not in dispute. Admittedly, the petitioners are the office bearers of the first respondent management. The first respondent have terminated the petitioners from service for 11



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charges, for which, the petitioners raised an Industrial Dispute before the Labour Court under Section 2(a)(2) of the ID Act. It is also admitted that the first respondent Management has issued charges against the petitioners. After an elaborate trial, the Labour court passed an order directing the Management to pay the compensation to the employees instead of granting reinstatement.

8. While discussing the matter, the Labour Court drawn the contention of the Hon'ble Supreme Court in the case of ***Jagbir Singh Vs. Haryana State Agriculture Marketing Board and another in 2009 15 SCC 327.***

9. Upon perusing the said decision, the Labour Court has rightly arrived at a conclusion that if the reinstatement is awarded, the peace and harmony at work place will be affected. Accordingly, taking note of the peculiar facts and circumstances of the case as delineated above, and taking note of the ratio of the above said decision as stated supra, this Court is of the considered opinion that the compensation as awarded by



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the Labour Court would be a reasonable amount in favour of the petitioners in lieu of reinstatement. Since the order passed by the Labour Court is perfectly in order and finding no merits in all the petitions and the same cannot be interfered with.

10. For the reasons aforesaid, all the writ petitions are dismissed.

No costs.

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Index: yes / no

Internet : yes / no

Speaking / Non speaking order

To

The Presiding Officer,
First Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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