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W.P.Nos.14911 of 2015 and 16846 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14911 of 2015 and 16846 of 2017

And

M.P.No.1 of 2015

The Management of
Gem Spinners India Limited ... Petitioner in W.P.14911/2015

G.Krishnamoorthy ... Petitioner in W.P.16846/2017

Vs.

1.The Presiding Officer
I Additional Labour Court
Chennai – 600 104. ... Respondent in both the W.Ps.

2.G.Krishnamoorthy ... Respondent in W.P.14911/2015

2.The Management of
Gem Spinners India Limited ... Respondent in W.P.16846/2017

Prayer in W.P.No.14911 of 2015:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with I.D.No.300 of 2010 on the file of first respondent, First Additional Labour Court, Chennai and to quash the order dated 22.12.2014 made therein.



W.P.Nos.14911 of 2015 and 16846 of 2017

Prayer in W.P.No.16846 of 2017:

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in connection with the award pronounced in I.D.No.300 of 2010 dated 22.12.2014 and quash the same in so far as denial of reinstatement with continuity of service and full back wages to the petitioner and direct the second respondent management to reinstate the petitioner in service with full back wages, continuity of service with all other attendant benefits.

For Petitioners : Mr.M.R.Dharanichander
in W.P.No.14911 of 2015
Mr.T.Ramkumar
in W.P.No.16846 of 2017

For Respondents : R1 – Labour Court
in both the W.Ps.
Mr.T.Ramkumar for R2
in W.P.No.14911 of 2015
Mr.M.R.Dharanichander for R2
in W.P.No.16846 of 2017

COMMON ORDER

Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.14911 of 2015 would be



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hereinafter referred to as 'Management' and the petitioner in W.P.No. 16846 of 2017 would be hereinafter referred to as 'Workman'.

2.The facts of the case is that the Workman joined the Management as Winding Operator and in the year 2000, a union namely 'Pattali Thozhir Sangam' was formed to represent the workers of the Management and the petitioner was selected as Secretary. On 22.02.2008 the Management issued charge memo to the Workman alleging that the Workman intercepted, physically assaulted and threatened his co-worker while he was on his way to home. Thereafter, enquiry was conducted and the Enquiry Officer drawn proven minute as against the Workman and based on the enquiry report, second show cause notice was issued to the Workman and thereafter the Workman was dismissed from service on 31.08.2008. Aggrieved by the same, the Workman raised industrial dispute before the first respondent and the first respondent passed award dated 22.12.2014, directing the Management to pay 50% of last drawn salary from 01.08.2008 to till the date of award to the Workman.

3.Aggrieved by the award dated 22.12.2014 made in I.D.No.300 of 2010, the Management has filed W.P.No.14911 of 2015 seeking to



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quash the award and the Workman has filed W.P.No.16846 of 2017 seeking to quash the award in so far as denial of reinstatement with continuity of service and full back wages to the Workman and to direct the Management to reinstate the Workman in service with full back wages, continuity of service with all other attendant benefits.

4.The learned counsel appearing for the Management submitted that in order to prove the guilt of the Workman, the Management marked exhibits Ex.M.1 to Ex.M.15. Before the Labour Court, the Workman did not establish that he is not gainfully employed anywhere. In the absence of any evidence, the Labour Court directing the Management to pay 50% of last drawn salary from 01.08.2008 to till the date of award to the Workman is not sustainable one. He further submitted that during the pendency of this writ petition, the Management has been closed.

5.The learned counsel appearing for the Workman submitted that the allegation levelled against the Workman is mis-conduct and the same was not established before the Enquiry Officer, however, the Enquiry Officer drawn proven minute as against the Workman. Even the said fact was not properly established before the Labour



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Court. In order to prove his innocence, the Workman marked exhibits Ex.W.1 to Ex.W.7. Even then the Labour Court directed the Management to only pay 50% of last drawn salary from 01.08.2008 to till the date of award to the Workman, which is not sustainable one. The Workman is entitled for full backwages.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, on 22.02.2008 the Management issued charge memo to the Workman alleging that the Workman intercepted, physically assaulted and threatened his co-worker while he was on his way to home. Thereafter, enquiry was conducted and based on the enquiry report, second show cause notice was issued to the Workman and thereafter the Workman was dismissed from service on 31.08.2008. Aggrieved by the same, the Workman raised industrial dispute before the first respondent and the first respondent passed award dated 22.12.2014, directing the Management to pay 50% of last drawn salary from 01.08.2008 to till the date of award to the Workman.



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8.The allegation against the Workman is not misappropriation.

For enmity inbetween co-workers, order of dismissal from service is highly disproportionate and the same is not sustainable one. However, the Management has now been closed. Hence, there is no question of reinstatement. Hence, inorder to strike the balance inbetween the parties, this Court directs the Management to pay a sum of Rs.2,75,000/- (Rupees Two Lakhs and Seventy Five Thousand Only) as full and final settlement to the Workman, within a period of four weeks from the date of receipt of a copy of this order.

9.These writ petitions are accordingly disposed of. No costs.

Consequently, the connected miscellaneous petition is closed.

07.08.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Presiding Officer
I Additional Labour Court
Chennai – 600 104.

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M.DHANDAPANI,J.
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