



WP.Nos.18436 of 2009 and 7157 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.Nos. 18436 of 2009 and 7157 of 2014

and

WMP.No.10423 of 2018

W.P.No.1836 of 2009

C.Chandrasekaran

...Petitioner

vs.

1. The Management of C.L.S. Press,
No.3-A, Vepery Church Road,
Vepery- Chennai 600 007.

2.Dr. Dayanandan Francis
(deceased – given up)
General Secretary,
Christian Literature Society,
No.68 Evening Bazar,
Park Town- Chennai 600 003

3. The Presiding Officer,
I Additional Labour Court,
Chennai.

...Respondents



WP.Nos.18436 of 2009 and 7157 of 2014

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating the Award dated 08.04.2009 made by the first Additional Labour Court in I.D.No. 737 of 2001 and quash the same as illegal and direct the first respondent to pay higher or better compensation in lieu of reinstatement to be determined to be fixed by this Court.

For Petitioner : Mr.K.V.Anantha Krishnan

For Respondents : RR1 & 2 – Mr.M.R.Raghavan
R3- Court

W.P.No.7157 of 2014

The Management of C.L.S. Press,
No.3-A, Vepery Church Road,
Chennai 600 007,
Now at No.68, Evening Bazaar Road,
Park Town, Chennai- 600 003.

...Petitioner

vs.

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

2.C.Chandrasekarn

...Respondents

Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, call for the records in I.D.No.737 of 2001 on the file of I Additional Labour Court, Chennai the first respondent herein,

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quash that portion of the award dated 08.04.2009 wherein the petitioner management has been ordered to pay compensation to the second respondent equivalent to the fifteen days average pay for every completed year of service of the second respondent irrespective of his leave applied for.

For Petitioner : Mr.M.R.Raghavan

For Respondents: R1- Court

R2- Mr.K.V.Anantha Krishnan

COMMON ORDER

The above writ petitions arise out of the order passed by the Labour Court in I.D.No. 737 of 2001 dated 08.04.2009.

2. W.P.No.18436 of 2009 is filed by the workman challenging the award in so far as compensation in lieu of reinstatement is concerned. The other writ petition in W.P.No.7157 of 2014 is filed by the management challenging the award of the Labour Court directing payment of compensation at the rate of 15 days for every completed year of service.



3. As both the writ petitions arise out of the one and the same award, these writ petitions are disposed of by this common order. The parties are referred as per their rank before the Court below.

4. The petitioner joined the service of the 1st respondent as a Binder in the year 1980. While so, the petitioner underwent surgery in his abdomen and had to rest post operation. He reported for duty on 26.06.2000 with medical certificate, but the 1st respondent denied him entry. The petitioner sent a notice to the respondent to reinstate him into service but, instead of reinstating the petitioner, the respondent issued a show cause notice on 30.06.2000 for misconduct of habitual absence. The petitioner submitted his explanation to the show cause notice on 04.07.2000, which was found to be unsatisfactory to the respondent and therefore a domestic enquiry was conducted and the petitioner was found guilty in the enquiry. Thereafter a second show cause notice on the basis of the enquiry report was issued to the petitioner on 31.10.2000, for which the petitioner gave his reply on 15.11.2000. As the explanation given by the petitioner was unsatisfactory, the respondent passed the dismissal order on 21.11.2000 and the same was challenged



before the Labour Court.

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5. The respondent contested the I.D stating that the petitioner was charged for violation of Clauses 15(vi), 15(xi) and 15(xv) of the Standing Orders. A show cause notice was issued and thereafter an enquiry was also conducted and after conducting a fair and proper enquiry the petitioner was dismissed from service. The respondent further submitted that the punishment imposed on the petitioner was commensurate with the gravity of misconduct and therefore the punishment could not be interfered under Section 11-A of the I.D Act.

6. The Labour Court on the basis of the materials placed before it, found that enquiry was properly conducted and that there was no reason to interfere with the enquiry officer's findings. The Labour Court on the basis of the submission of the learned counsel for the petitioner, that as the respondent establishment was closed, compensation could be awarded to the petitioner, passed the impugned order awarding compensation of 15 days average pay for every completed year of service.



7. Both the petitioner as well as respondent aggrieved by the award of the Labour Court have filed the above writ petitions.

8. The learned counsel for the petitioner submitted that the Labour Court ought to have awarded higher compensation in lieu of reinstatement.

9. The learned counsel for the respondent on the other hand submitted that the Award of the Labour Court was not sustainable as the Labour Court having concluded that the enquiry was fairly and properly conducted erred in interfering with the punishment under Section 11-A of the Act.

10. I have heard both the learned counsels and have perused the materials placed on record.

11. The Labour Court elaborately discussed the entire materials and concluded that the enquiry proceedings were conducted in a fair and proper manner and that the observations of the enquiry officer were sound and based on judicious application of mind. Even on the quantum of punishment,



the Labour Court found that the Disciplinary authority had analysed the report in detail and imposed the punishment. The Labour Court merely on the basis of the submission of the petitioner's counsel that compensation should be awarded, as the petitioner was deprived of employment recorded that there was no stiff resistance from the counsel for the respondent and passed the Award directing the respondent to pay the compensation of 15 days average pay for every completed year of service. The Labour Court passed the award by taking into consideration the fact that the respondent industry was closed.

12. At the time of the arguments, the learned counsel for the respondent vehemently denied that he had ever conceded to the Award. In the Judgment of the Hon'ble Supreme Court in the case of *State of Maharashtra vs. Ramdas Shrinivas Nayak and Another* reported in 1982 (2) SCC 463 it is held in para '8' as follows:

"8. So the judges' record is conclusive. Neither lawyer nor litigant may claim to contradict it, except before the judge himself, but nowhere else."



It is seen that the Labour Court has recorded that there was no stiff resistance from the counsel for the respondent if the respondent was aggrieved by the statement, he should have got it clarified before the Labour Court. I am therefore not inclined to accept the oral submission of the learned counsel for the respondent.

13. As far as the writ petition filed by the petitioner is concerned, it is seen that the compensation was not awarded in lieu of reinstatement, but only on the basis of the submission of the learned counsel for the petitioner that the petitioner was deprived of employment and that too because there was no stiff resistance from the counsel for the respondent.

14. Considering that the petitioner was not settled the amount as per the Award of the Labour Court, this Court felt that the amount as ordered by the Labour Court should be settled forthwith. This Court therefore directed the petitioner as well as the respondent to give memo of calculation as per the Award of the Labour Court. Both the parties filed the memo of calculations. It is seen that there is no dispute as to the number of years of service put in by the petitioner and the last drawn wages. The minor discrepancy in the calculation of the petitioner and the respondent arises,



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because the respondent has calculated the interest at 6% for 14 years, but the petitioner has calculated for 14 years and 6 months i.e. from the date of the Award till 09.11.2023, the date of order. I am therefore inclined to accept the calculation (A) of the petitioner which is as follows:

Memo of Calculation (A)

Joined Service	::	01-02-1980
Terminated on	::	28-06-2000
Dispute raised	::	ID No. 737 of 2001
I.D. Order	::	08-04-2009
passed after 8 years		
Total Service on termination ::		20 years
On the date of the date of		
Tribunal order	::	29 years
Last drawn Salary	::	Rs. 4,100/-
15 days average pay for every completed year of		
service	::	20 years
15 days average pay	::	2050
20 years service on date		
of termination	::	2050x20=41,000/-
6% interest from 8-4-2009 to 9-11-2023		
14 years 6 months		<u>35,670/-</u>
Total Amount		<u>Rs.76,679/-</u>



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In the light of the above discussions, the respondent is directed to pay the said amount of Rs.76,679/- to the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order. The Award of the Labour Court is confirmed.

In the result, these writ petitions are disposed of with the aforesaid direction. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

15.11.2023

Index:Yes/No
Speaking Order: Yes/No
Neutral Citation:Yes/No
dsn



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