



W.P.No.5093 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

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

W.P.No.5093 of 2018

R.Paranjothy

...Petitioner

Vs.

1. The Presiding Officer,
Central Government Industrial Tribunal-
cum-Labour Court,
Haddows Road, Shastri Bhavan,
Chennai – 600 006.

2. The Director (Personnel),
M/s. Neyveli Lignite Corporation Ltd.,
Neyveli – 607 803.

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the first respondent in I.D.No.100 of 2011 dated 31.10.2013, quash the same in respect of the portion of the award in para 15 clauses (c) and (d) and consequently direct the second respondent to pay the reduction of pay by one stage amount and pay the entire back wages amount to the petitioner.



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For Petitioner : Mr.D.Bharathy

For Respondents : Mr.N.Nithianandam, for R2

ORDER

This Writ petition has been filed seeking to quash the award passed by the 1st respondent dated 31.10.2013 in I.D.No.100 of 2011 in so far as clauses (c) and (d) in paragraph 15 are concerned and to consequently direct the 2nd respondent to pay the reduction of pay by one stage amount and to pay the entire back wages to the petitioner.

2. The case of the petitioner is that, he joined the services of the 2nd respondent corporation as Worker in the year 1994. However, all of a sudden, the petitioner was dismissed from service during the year 2009. Aggrieved by the said dismissal, the petitioner initiated conciliation proceedings and as the same ended in failure, the petitioner raised an industrial dispute before the 1st respondent in I.D.No.100/2011, who in turn passed the impugned award directing the 2nd respondent to reinstate the petitioner back into service with reduction of pay by one stage by making it



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clear that he would not be entitled to get back wages. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, even it is admitted that the petitioner failed to comply with the terms and conditions for availing a Vehicle loan by not submitting the relevant documents, however, for the above said misconduct, imposing a punishment of dismissal from service is highly disproportionate and the petitioner was unable to submit the documents due to some personal problems, since the advance amount received by him was used to meet some dire necessities. He further submitted that, several workers who had also committed the similar misconduct were imposed with mere punishments such as reduction of pay, stoppage of increment or warning, as the circumstances required, while so, imposing a maximum punishment of dismissal from service only on the petitioner is not sustainable. He furthermore submitted that, though the petitioner has got a unblemished record of service, the Labour Court, without considering any of the above said facts, vide present impugned award ordered for reinstatement, however, without any backwages and also



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modified the punishment of dismissal from service to reduction of pay by one stay. For mere misuse of conveyance advance, imposing two punishment only in respect of the petitioner is not sustainable. Accordingly, he prayed for allowing this Writ petition.

4. Learned Counsel appearing for the 2nd respondent submitted that, pursuant to the application made by the petitioner seeking conveyance advance, the 2nd respondent sanctioned advance amount of Rs.40,000/- for purchasing a two-wheeler and the same was disbursed in favour of the petitioner on 18.04.2008. However, the petitioner had not purchased any vehicle and he failed to submit the relevant documents, which is a clear violation of the terms and conditions of the loan and he also failed to remit the conveyance amount obtained by him back to the management. Thereby, the respondent corporation issued the suspension order cum charge memo to the petitioner on 23.06.2008, however, the petitioner neither appeared for enquiry nor taken any steps to submit any explanation, despite adjourning the enquiry proceedings on various occasion for want of his appearance. Thereby, the petitioner was made *exparte* in the enquiry proceedings and as



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the charges held against him were proved, the petitioner was dismissed from service, vide order dated 13.02.2009. Further, the petitioner nowhere in his claim statement had averred that he was not gainfully employed during the non-employment period. Hence, in the absence of any specific averment, the Labour Court had not awarded any backwages in favour of the petitioner. He further submitted that, pursuant to the impugned award, the petitioner was reinstated back into service and the petitioner had also joined duty and he was subsequently allowed to retire from service and therefore, nothing survives for further adjudication. Accordingly, he prayed for dismissal of this Writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent and perused the materials placed on record.

6. Admittedly, the petitioner joined the services of the 2nd respondent corporation as Worker in the year 1994 and for certain alleged misconduct committed by him, the petitioner was dismissed from service, vide order dated 13.02.2009. Challenging the said dismissal the petitioner had raised



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an industrial dispute before the 1st respondent in I.D.No.100/2011, who in turn passed the impugned award.

7. Though, it is the claim of the petitioner that, the management had imposed only small punishments such as reduction of pay, stoppage of increment or warning on the other workers who had committed the similar misconduct and that the management had imposed a maximum punishment of dismissal from service only on the petitioner, which is not sustainable, however, a perusal of the material documents placed on record particularly the impugned award reveals that, after elaborately considering all the above said facts, the Labour Court had passed the present impugned award by modifying the punishment from dismissal to reduction of pay by one stage.

8. The only issue arises for consideration in this Writ petition is whether the petitioner is entitled for backwages or not? This Court perused the claim statement filed by the petitioner and on a perusal of which it is evident that, the petitioner had not clearly averred whether he is gainfully employed or not during the non-employment period. Hence, in the absence



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of any specific averment and material documents to establish that the petitioner was not gainfully employed during the non-employment, the Labour Court had refused to award any backwages, in which this Court does not find any fault with and is not inclined to interfere with the same.

9. For the reasons aforesaid, this Writ petitions stands dismissed. No costs.

07.09.2023

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

The Presiding Officer,
Central Government Industrial Tribunal-cum-Labour Court,
Haddows Road, Shastri Bhavan,
Chennai-6.



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M.DHANDAPANI, J.

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