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W.P.Nos.29405 & 37096 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.29405 & 37096 of 2004 and
WPMP.Nos.35715 & 44533 of 2004

WP.No.29405 of 2004

- 1.M.Nazeer Mohamed
- 2.P.Chandrasekaran
- 3.D.Ashok Kumar
- 4.J.Lakshmanasamy
- 5.J.Edwin Jayabal
- 6.J.Purushothaman
- 7.P.Thimayabharathi
- 8.K.Rajan
- 9.S.Sivasamy
- 10.V.Kamalakannan
- 11.M.Senthilkumar
- 12.R.Manikandan
- 13.K.Kesavan
- 14.R.Mathavarajan
- 15.R.Krishnasamy
- 16.R.Danasekaran
- 17.V.Arumugam

... Petitioners

Vs.

- 1.M/s.KSB Pumps Ltd.,
Rep. By its General Manager,
151, Mettupalayam Road,
Narasimha Naickanpalayam,
Coimbatore 641 031



W.P.Nos.29405 & 37096 of 2004

2.The Presiding Officer,
Labour Court,
Coimbatore-18.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records from the second respondent Labour Court relating to its Award dated 07.01.2004 in ID.Nos.381 to 384, 386, 387, 392, 399, 400, 404, 405, 409 to 411, 413, 416 and 417 of 2000, quash the same and consequently direct the first respondent to reinstate the petitioner in service with continuity of service, full back-wages and all consequential benefits.

Petitioners : Mr.K.M.Ramesh,
Senior Counsel
for Mr.V.Subramani

For Respondents

R2 : Court

R1 : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.

WP.No.37096 of 2004

M/s.KSB Pumps Ltd.,
151, Mettupalayam Road,
NSN Palayam Post,
Coimbatore 641 031
Rep. By its General Manager,

... Petitioner

Vs.

1.The Presiding Officer,



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Labour Court,
Coimbatore

- 2.M.Nazeer Mohamed
- 3.P.Chandrasekaran
- 4.D.Ashok Kumar
- 5.J.Lakshmanasamy
- 6.J.Edwin Jayabal
- 7.J.Purushothaman
- 8.P.Thimayabharathi
- 9.K.Rajan
- 10.S.Sivasamy
- 11.V.Kamalakaran
- 12.M.Senthilkumar
- 13.R.Manikandan
- 14.K.Kesavan
- 15.R.Mathavarajan
- 16.R.Krishnasamy
- 17.R.Danasekaran
- 18.V.Arumugam

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorari calling for the records of the first respondent in ID.Nos.381 to 384, 386, 387, 392, 399, 400, 404, 405, 409 to 411, 413, 416 and 417 of 2000 and quash its award dated 07.01.2004 insofar as it directs the petitioner to pay compensation of Rs.76,000/- to respondents 2 to 18.

Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.

For Respondents
R1 : Court



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R12 to 18 : Mr.K.M.Ramesh,
Senior Counsel
for Mr.V.Subramani

COMMON ORDER

Both the writ petitions have been filed challenging the common award passed by the Labour Court, Coimbatore dated 07.01.2004, thereby ordered to pay compensation of Rs.76,000/- to each workman .

2. The petitioners in WP.No.29405 of 2004 and respondents 2 to 18 in WP.No.37096 of 2004 are hereinafter called as 'workmen'. The first respondent in WP.No.29405 of 2004 and petitioner in WP.No.37096 of 2004 is hereinafter called as 'management'. The workmen were engaged as casual labour. Thereafter, they were re-designated as Apprentice. After completion of five years of their service, they were given appointment orders as temporary employees. Though they were designated as Apprentice, they were required to discharge regular work along with permanent employees from the beginning. Therefore, they demanded permanency of their services by their representation. However,



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the management instead of regularising their services, terminated them from service with effect from 24.03.2000. There were totally 49 workmen and except 17 workmen, others were settled by the management. Therefore, they raised Industrial Dispute before the Labour Court. The Labour Court passed common award and ordered to pay compensation of Rs.76,000/- to each workman. Therefore, the workmen challenged the common award insofar as the refusal of reinstatement into service. At the same time, the management also challenged the common award insofar as awarding compensation of Rs.76,000 to each workmen.

3. The learned Senior Counsel appearing for the workmen submitted that once the Labour Court found that their termination was illegal, ought to have been reinstated into service instead of awarding compensation. Further, no one can be continued as Apprentice or Temporary Staff for eight years. As per the Standing Orders, a trainee or apprentice means 'a person who has been inducted to learn the work'. Whereas the workmen discharged their duties of regular work, earned incentives and certain benefits that are applicable to the regular



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employees. Therefore, the Labour Court ought to have ordered reinstatement into service. In fact, all the workmen had completed their 480 days of continuous service in the given period of 24 calendar months. Therefore, they were deemed to have attained permanent status.

4. The learned counsel appearing for the management would submit that out of 49 workmen, except the petitioners, others were settled under Section 18(1) of Industrial Disputes Act and they received compensation as awarded by the Labour Court as full and final settlement. When the Labour Court held that the dispute raised by the workmen was not maintainable, the Labour Court ought not to have ordered for any compensation payable by the management to the workmen.

5. Heard, the learned counsel appearing on either side.

6. On perusal of the award, this Court finds no perverse or illegality committed by the Labour Court while ordering compensation.



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However, the Labour Court awarded compensation of Rs.76,000/- on sympathetic ground without any justification. Admittedly, the workmen were working under the management for more than 8 years. Further, they discharged duties of regular work and last drawn salary of each workman amounted to Rs.2,600/- to Rs.3,700/-. Therefore, the Labour Court ought to have awarded compensation on the basis of their last drawn pay and their total period of service.

7. Considering the above, this Court does not find any reasonable ground to set aside the award. However, this Court is inclined to enhance the compensation by considering the workmen's total period of service as well as their last drawn pay. Accordingly, the compensation awarded in the impugned common award dated 07.01.2004 is enhanced to the tune of Rs.3,00,000/- (Rupees Three Lakhs only) to each workman payable by the management within a period of eight weeks from the date of receipt of copy of this order.



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8. In the result, the writ petition in WP.No.37096 of 2004 stands dismissed and the writ petition in WP.No.29405 of 2004 stands disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

21.09.2023

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

- 1.General Manager,
M/s.KSB Pumps Ltd.,
151, Mettupalayam Road,
Narasimha Naickanpalayam,
Coimbatore 641 031
- 2.The Presiding Officer,
Labour Court,
Coimbatore-18.
3. The Government Advocate,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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