



W.P.No.36785 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.36785 of 2004

The Management of
M/s. Seshasayee Paper and Boards Limited,
Pallipalayam,
Namakkal District.

.... Petitioner

VS

1. The Presiding Officer,
Labour Court, Salem.

2. K.Rathinasamy

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to C.P.No.269/1999 on the files of the first respondent and the order passed therein dated 21.07.2004 and quash the same.

For Petitioner : Mrs.S.Rita Chandrasekar
for M/s. Aiyar & Dolia

For respondents : R1-Court
No appearance for R2



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ORDER

This writ petition has been filed challenging the order passed by the 1st respondent/Labour Court in C.P.No.269/1999 dated 21.07.2004.

2. The case of the petitioner in brief is as follows:

The 2nd respondent was working as a Sepoy(Watchman) in the petitioner Mill from 01.11.1962. On 23.07.1974, while he was on duty, he was found to have indulged in immoral sexual activities with a female inside the company. Thus, after issuance of charge memo and due domestic enquiry, he was dismissed from service by order dated 19.10.1974. The Union of which the 2nd respondent was a member, raised an Industrial Dispute challenging the dismissal order and the Labour Court in I.D.No.70/1975 passed an award dated 19.02.1976, rejecting the claim of the 2nd respondent and upheld the order of dismissal of the 2nd respondent. During the pendency of this writ petition, the Union which represented the 2nd respondent, proposed a compromise, which was accepted by the petitioner Management. Accordingly, the petitioner was appointed afresh as an Attendant Gr.II, by order dated 30.08.1977 and the petitioner also joined service on 01.09.1977 as a fresh entrant. Subsequently, the 2nd respondent also retired from service on 31.05.1998. Therefore, the petitioner is entitled for payment of gratuity for the service rendered by him



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from 01.09.1977 to 31.05.1998 only. Apart from payment of gratuity, vide settlement dated 29.08.1994, the petitioner Company has agreed to introduce Retirement Fund Scheme from 01.04.1994 by contribution of Rs.5/- per month from each employee to the retirement fund and the management will make the balance contribution so as to make a total amount of Rs.20,000/- for each case of retirement after superannuation, resignation etc. Towards payment of gratuity, the 2nd respondent was paid Rs.60,264/- as on 01.06.1998 and as per the terms of settlement dated 29.08.1994, he was paid Rs.30,000/-, an extra amount of Rs.10,000/- by way of leniency shown to the 2nd respondent. After receiving the same, the 2nd respondent claimed payment of Gratuity before the Controlling Authority in P.G. Application No.28 of 2000. He claimed gratuity on the basis that the gratuity should be calculated from 01.11.1962 suppressing the fact of dismissal from service and joining the company as a fresh entrant under compromise on 1.9.1977. The Controlling Authority dismissed the claim of the 2nd respondent. Consequently, the 2nd respondent approached the 1st respondent alleging that he was not paid Rs.20,000/- as per the terms of settlement dated 29.08.1994. The first respondent directed the petitioner Management to pay the 2nd respondent Rs.20,000/- together with cost of Rs.200/- along with interest at the rate of 6% per annum from the date of application of the 2nd respondent. Hence, the present writ petition is filed.



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paid a further sum of Rs.20,000/-.

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5. In the result, the order passed by the 1st respondent in C.P.No.269/1999 dated 21.07.2004 is hereby set aside and the Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

03.01.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

To
The Presiding Officer,
Labour Court,
Salem.



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J.NISHA BANU,J.

vsi

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