



W.P.Nos.4407 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.4407 of 2004 & 25778 of 2003

L.Sengottian ... Petitioner in W.P.No.4407/2004 &
2nd respondent in W.P.No.25778/2003

Vs

1.The Presiding Officer,
Labour Court, Salem ... 1st Respondent in both W.Ps.

2.Management of Ponni Sugar & Chemicals Ltd.,
Erode – 7
Namakal District. ... 2nd Respondent in
W.P.No.4407/2004 &
Petitioner in W.P.No.25778/2003

COMMON PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the award dated 19.02.2003, passed by the first respondent in I.D.No.229 of 1997, quash the same and consequently, direct the second respondent to reinstate the petitioner in service with full backwages and pass such order.

Page No: 1/11



W.P.Nos.4407 of 2004

For Petitioner in : Mr.K.M.Ramesh Sr. Counsel for
Mr.S.Apunu in W.P.4407/2004 &
2nd respondent in W.P.No.25778/03

For Respondents : R1- Labour Court in both W.Ps

Mr.Anand for M/s.T.S.Gopalan & Co for
R2 in W.P.4407/2004 & Petitioner in
W.P.No.25778/03

COMMON ORDER

These Writ Petitions have been filed against the award of the Labour Court, Salem, by both the workman as well as the Management.

2. Heard Mr.K.M.Ramesh, learned Senior counsel appearing for Mr.S.Apunu, learned counsel appearing for the Workman and Mr.Anand, learned counsel appearing for the Management.

3. The learned Senior counsel appearing for the Workman would submit that the workman had joined in the second respondent Management as an Assistant on 19.07.1983, and then his services were regularized on 03.09.1984. He would submit that on 01.01.1990 the workman was transferred to the post of cane Accountant, and the

Page No: 2/11



W.P.Nos.4407 of 2004

WEB COPY

monthly salary of the workman was Rs.4000/-. Further the learned counsel would submit that the Management is a Sugar industry functioning under the control of the State Government, where they collected sugar canes from the farmers and procure sugar out of it and sell it to the Government and then the Management would sell the rest of the sugar to the external market. The respondent Management have more than 500 employees.

4. Subsequently on 27.05.1996 the Management had issued an office order stating that the workman is transferred to the office at Calcutta as a supervisor in order to assist in the matters like Agriculture cash credit, working capital follow-up work and other connected works, and that the workman shall report to one V.R.V.Narayan, Resident representative in the Calcutta office and on 07.06.1996 the workman made a representation to the Management to cancel the transfer order and allow him to continue to work at Erode branch. The claim of the workman was that the transfer to Calcutta was in violation of the terms of appointment and it would amount to unfair labour practice. The

Page No: 3/11



W.P.Nos.4407 of 2004

WEB COPY

representation made by the workman was rejected on 12.06.1996.

5. He would further submit that after the order of transfer passed on 07.06.1996, the Management had permitted the workman to undergo Post Graduate Diploma in Labour Administration and the workman has to attend classes for which he has to continue in Erode itself. Further on 21.06.1996 and 06.11.1996 the workman had informed the Management that he was undergoing medical treatment and was advised to take complete bed rest, for which he had also given medical certificates. The representation made by the workman was rejected by the Management.

6. Thereafter the workman filed a suit before the District Munsif Court, Thiruchengode against the transfer order and had obtained an interim injunction on 08.08.1996. After which the workman joined for duty on 09.08.1996, and on the very next day, the workman was not allowed to join for duty. The injunction order granted by the Court was vacated on 23.08.1996. Subsequently the respondent Management

Page No: 4/11



W.P.Nos.4407 of 2004

WEB COPY

issued a notice directing the workman to join for duty at Calcutta on or before 30.08.1996, for which the workman replied stating his inconvenience to attend for duty at Calcutta and the same was also rejected and asked the workman to join for duty on 07.09.1996, and further informed that if he failed to report on the said date, the Management would initiate disciplinary proceedings. By order dated 03.09.1996, the Management had decided to terminate the petitioner from services on the ground of misconduct and the termination order was signed only on 09.01.1997.

7. The learned Senior counsel would further submit that aggrieved over the order of termination, the workman raised an Industrial Dispute and by order dated 19.02.2003, the Tribunal held that the workman cannot be reinstated to the work, but the Management has to compensate the workman and the Tribunal had awarded a sum of Rs.75,000/- to be paid to the workman.

Page No: 5/11



W.P.Nos.4407 of 2004

WEB COPY

8. Countering his arguments, Mr. Anand, learned counsel appearing for the Management would submit that the Management took over a Sugar Factory run by a Co-operative Society at Orissa in the year 1991, and as many as four Officers were posted to Orissa. The Management had retained the services of one V.R.V Narayan at Calcutta and he was in need of an assistant who is well acquainted with the procedures relating to crop loans, for which the Management had thought of sending an experienced person of the mill at Erode and had issued an office order to transfer the workman to the office at Calcutta. On 27.05.1996, the workman was transferred and posted at Calcutta office to work as Supervisor. By the said order, the workman was granted an additional allowance of Rs.1000/- per month. The Management has no provisions for transfer and prohibiting the transfer, therefore, the transfer order issued by the Management is legal.

9. Further, the learned counsel would submit that the workman who do not choose to join for duty despite issuing several notices, had been terminated from service, therefore, the order of termination was

Page No: 6/11



W.P.Nos.4407 of 2004

WEB COPY

issued on 09.01.1997. Aggrieved over the said, the workman had approached the Labour Court and the Tribunal held that the the workman had continuously disobeyed the orders of the Management and had not reported for duty, such person cannot be reinstated, but however, the Tribunal had fixed a sum of Rs.75,000/- as compensation to be paid to the workman. Therefore, he would submit that the order of the Management does not call for any interference and would seek this Court to set aside the award passed by the Tribunal.

10.I have heard the rival submissions made on either side and perused the materials placed on record.

11.It is brought to the notice of this Court that during the pendency of these Writ Petitions, the workman had attained the age of superannuation.

12.In such view of the matter, I do not propose to enter upon the lis raised by the workman as regards to his claim for reinstatement, but

Page No: 7/11



W.P.Nos.4407 of 2004

WEB COPY

however, considering the fact that the workman had been compensated for a sum of Rs.75,000/- in lieu of reinstatement, which in my view does not commensurate with the nature of employment and the period of service that the workman had rendered and would be putting in if the reinstatement is ordered, I had asked the Management to come up with the proposal for making a higher payment.

13. In response, the Management had intimated that the said amount of Rs.75,000/- with interest as awarded by the Tribunal would come up to Rs.1,80,000/- as on today and the gratuity payable to the workman along with interest, which would come around for a sum of Rs.1,20,000/- together with interest and therefore, he would submit that the Management will be willing to make a payment of Rs.4,00,000/- as full and final quit to the lis.

14. But however, Mr.K.M.Ramesh, learned Senior counsel appearing for the workman would submit that the workman would be benefited much more, if the workman is reinstated into service.

Page No: 8/11



W.P.Nos.4407 of 2004

WEB COPY

Therefore, he would submit that an offer of Rs.4,00,000/- as on today is on the lower sum and the Management should atleast pay a sum of Rs.10,00,000/-.

15. The said claim made by the learned Senior counsel, according to me is a higher sum. Considering the facts and circumstances of the case, I am of the considered view that the ends of justice would be met to the workman as well as the Management, if the Management pay a sum of Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only) as full and final quit towards all claims of the workman including the gratuity. Therefore, there shall be a direction to the Management to pay a sum of Rs.5,50,000/- to the Workman on or before 31.03.2024.

16. In fine, both the Writ Petitions are disposed of on the above terms. However, there shall be no order as to costs.

01.12.2023

pbn

Index

: Yes/No

Page No: 9/11



W.P.Nos.4407 of 2004

Speaking order : Yes/No
Neutral Citations : Yes/No

WEB COPY

Note: Issue order copy on 03.01.2024



WEB COPY



W.P.Nos.4407 of 2004

K.KUMARESH BABU,J.

Pbn

To

The Presiding Officer,
Labour Court, Salem

W.P.Nos.4407 of 2004 & 25778 of 2003

01.12.2023

Page No: 11/11