



WP.No.14665 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14665 of 2016 &
WMP.Nos.12840 of 2016 &
37080, 37085 & 37087 of 2018

- 1.The Deputy Zonal HR
Manager, M/s.Reliance
Life Insurance Co.Ltd.,
No.114, Mena Kampala
Arcade, Sir Thyagara Road,
T.Nagar, Chennai-17.
- 2.The Branch Manager,
Reliance Life Insurance Co.
Ltd., 15/64A, Ground Floor,
Palace Road, Thuckalay.
629175. Kanyakumari District.
- 3.The Regional Manager,
Reliance Life Insurance Co.
Ltd., 13/10, Reliance House,
I Floor, Near Anna Bus Stand,
Subburaman Street,
Gandhi Nagar, Madurai-20.

...Petitioners



WP.No.14665 of 2016

WEB COPY

Vs

1.The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Chennai-6.

2.J.G.John Jeba Sobin

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent in I.D.No.58 of 2014 and quash the award dated 20.04.2015.

For Petitioners : Mr.G.Anand Gopalan for
M/s.T.S.Gopalan and Co.

For Respondent-2: Mr.K.R.Samratt for
M/s.S.Arunachalam Associates

ORDER

This is a petition filed by the petitioners seeking to quash the order dated 20.04.2015 made in I.D.No.58 of 2014 on the file of the first respondent.

3. The facts leading to filing of this case are stated as follows :



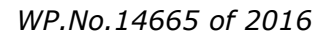
WP.No.14665 of 2016

WEB COPY

(i) The second respondent joined in the petitioner company as a Junior Sales Manager at Thuckalay in June 2008. The primary responsibility of the second respondent was to carry out sales activity. While reviewing the performance of the second respondent very many times, it was found by the petitioner company that his performance was lacking. He was given several opportunities to improve his performance as required by the petitioner company. As there was no improvement in his performance, the first petitioner terminated his services by order dated 05.02.2013.

(ii) Challenging the said order of termination 05.02.2013, the second respondent raised an industrial dispute, in which, the petitioner company filed a written statement. The second respondent also filed a rejoinder. However, the first respondent passed the impugned award directing reinstatement of the second respondent with 50% backwages, continuity of service and other attendant benefits.

(iii) Aggrieved by that, the petitioners are before this Court





WP.No.14665 of 2016

WEB COPY

6. The second respondent also filed a counter affidavit in the year 2022 denying the allegations made in the affidavit filed in support of the writ petition. It was contended that the second respondent was a workman coming under the definition of Section 2(s) of the Industrial Disputes Act and that all the facts regarding the performance of the second respondent were concocted in order to remove him from service as the petitioner company used to remove the employees, who completed four years of service. In the counter, the second respondent pleaded mala fides against the Territory Manager concerned.

7. Learned counsel for the petitioner would submit that pursuant to the award passed by the Labour Court in I.D.No.58 of 2014, though the petitioner management repeatedly made several requests to the 2nd respondent to join the duty at Chennai Branch, however, he refused to join the duty as he was not willing to be posted at Chennai and that he wanted to be posted nearby his native place Thuckalay. Merely because of the reluctance on the part of the 2nd respondent in not joining the duty cannot be put against the petitioner. However, the petitioner is ready to pay the 50%



WP.No.14665 of 2016

WEB COPY

backwages as awarded by the Labour Court.

8. On the above contention, this Court heard the learned counsel appearing for the 2nd respondent and perused the materials available on recor.

9. Admittedly, the 2nd respondent was appointed as a Junior Sales Manager at Thuckalay in the year 2008. Subsequently, he was terminated from service due to lack of performance in his work. It is seen that subsequent to the award passed by the Labour Court, though the petitioner management called upon to the 2nd respondent to rejoin duty at Chennai Branch, however, the 2nd respondent had refused to join the duty which shows his non-inclination to continue his service in the petitioner management. However, at the time of arguments, the petitioner management expressed their willingness to pay 50% backwages as awarded by the Labour Court in I.D.No.58 of 2014 to the 2nd respondent. The above reveals that all is not well between the petitioner and the workman and, therefore, it



WP.No.14665 of 2016

WEB COPY

would not be conducive in the interest of either party to continue their association.

10. It has been the consistent view of the Courts that when there is no possibility of a conducive settlement between the parties, in lieu of reinstatement, a fair compensation could be fixed to be paid to the workman.

In the present case, in view of the act of the 2nd respondent in not availing the opportunity of continuance of service, it would be evident that the possibility to reinstatement of the 2nd respondent into service would not be in the interest of either party. Hence, insofar as the reinstatement, the award passed in I.D.No.58 of 2014 requires interference.

11. However, in order to strike the balance between the warring parties and to render substantial justice, in lieu of reinstatement and backwages, this Court modifies the award by directing the petitioner management to pay a one time compensation of Rs.4,00,000/- (Rupees Four Lakhs only) to the workman towards full quit.

M.DHANDAPANI, J



WP.No.14665 of 2016

WEB COPY

NHS

12. Accordingly, the petitioner management is directed to deposit the compensation amount of Rs.4,00,000/- to the credit of the I.D.No.58 of 2014 within a period of four weeks from the date of receipt of a copy of this order. The 2nd respondent is at liberty to withdraw the said amount.

13. This Writ Petition is allowed in the above terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

06.07.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
NHS
To
The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Chennai-6.

WP.No.14665 of 2016 &
WMP.Nos.12840 of 2016 &
37080, 37085 & 37087/2018