



W.P.No.20515 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2023

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P.No.20515 of 2013

and

M.P.No.1 of 2013

The Management,  
Pachaiyappa's Trust,  
represented by the Principal,  
C.Kandaswamy Naidu Women College,  
Cuddalore.

.... Petitioner

VS

1. The Presiding Officer,  
Labour Court,  
Cuddalore.

2. K.Jothiramalingam

.... Respondents

Writ Petition filed under Article 226 of the Constitution to issue a  
Writ of Certiorari to call for the records of the 1st respondent made in  
I.D.No. 14 of 2008 on the file of the Labour Court, Cuddalore and quash the  
order dated 6.5.2013 of the 1st respondent.

For Petitioner : Mr.K.V.Sundararajan

For Respondents : R1-Court  
Mr.K.Arunagiri for R2

ORDER



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This writ petition has been filed challenging the order passed by the 1st respondent/Labour Court, in which, the Labour Court has directed the petitioner to reinstate the 2nd respondent herein with continuity of service along with backwages.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent.

3. Learned counsel for the petitioner would submit that the 2nd respondent was appointed as Lab Assistant purely on temporary basis and his service was terminated when his service was found to be unsatisfactory without any notice, as he was paid only consolidated remuneration of Rs.1500/- per month. The petitioner is an Educational Institution and it is exempted from the provisions of Industrial Disputes Act and thus, the 2nd respondent has no vested right to raise a dispute before the Labour Forum. But the labour Court overlooked the fact of the appointment order under which the 2nd respondent was appointed and passed an order directing reinstatement with continuity of service along with backwages. Hence, he would pray to quash the impugned order passed by the Labour Court.

4. In support of the above contention, learned counsel also relied on the decision of the Hon'ble Apex Court reported in 1997(11) SCC 521



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(Escorts Limited v. Presiding Officer), wherein it is held that since the service of the workman were terminated as per the terms of the contract of employment, it does not amount to retrenchment under Section 2(oo) of the Act.

5. Learned counsel appearing for the 2nd respondent would submit that the 2nd respondent was appointed on 03.12.2004 and was discharging his duties with unblemished record of service. Whiles, on 30.04.2006, the petitioner Management dismissed the petitioner and five others without any basis and again, he was given employment from 11.07.2006 to 22.04.2007 without any written orders and thereafter, he was removed from service on 22.04.2007. Thus, the 2nd respondent raised Industrial Dispute, in which, the Labour Court has rightly awarded reinstatement with continuity of service and backwages. Hence, the award of the Labour Court need not be interfered with.

6. This Court, considered the rival submissions and perused the materials available on record.

7. It is not in dispute that the 2nd respondent was appointed as Laboratory Assistant in the petitioner College on 03.12.2004 and was discharging his duties without any blemish. In the Industrial Dispute before



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the Labour Court, the petitioner herein had stated that the 2nd respondent was terminated on 30.04.2006 in terms of Circular dated 08.03.2006 issued by the Administrative General and Official Trustee of Tamil Nadu and that several other non-teaching staff members were also discharged along with the petitioner by the same order and that their services were terminated in order to avoid unnecessary expenses and streamline the administration.

8. The appointment order of the 2nd respondent was not disputed by the petitioner and the termination order was also not disputed by the petitioner. Moreover, M.W.1 Superintendent of the Petitioner College also admitted that the 2nd respondent had put in more than 2 years of continuous service in the respondent School. It is seen that the service of the 2nd respondent was terminated without any reasons. Further, the 2nd respondent is a non-teaching staff and he must be regarded as a workman as observed in the decision of the Hon'ble Supreme Court reported in JT 1987(2) 101 (Miss.A.Sundarambal vs. Government of Goa, Daman and Diu). Therefore, it is clear that the 2nd respondent was terminated from service without complying with section 25(F) of the Industrial Disputes Act. Therefore, this Court finds no infirmity or illegality in the award passed by the Labour Court.



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9. In the result, the Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Speaking/Non-speaking order  
vsi

To

The Presiding Officer,  
Labour Court,  
Cuddalore.



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J.NISHA BANU,J.

vsi

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