



W.P.Nos.23579 & 23580 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition Nos.23579 & 23580 of 2013
and M.P.Nos.1 and 1 of 2013

The Management of Deccan Enterprises
4, 7th Avenue, Harrington Road
Chetpet, Chennai – 600 031
Rep.by its Proprietor K.Krishnamoorthy

.... Petitioner in both W.Ps

-Vs-

1.The Presiding Officer
1st Additional Labour Court
Chennai.

.... R1 in both W.Ps.

2.R.Amalraj

.... R2 in W.P.No.23579/2013

S.Venkatesalu

.... R2 in W.P.No.23580/2013

Prayer in W.P.No.23579 of 2013 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 1st respondent in I.D.No.283 of 2008 and quash its order dated 11.07.2013 insofar as it directs the petitioner to pay compensation of Rs.5 lakhs to the 2nd respondent.

Prayer in W.P.No.23580 of 2013 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 1st respondent in I.D.No.284 of 2008 and quash its order dated 11.07.2013 insofar as it directs the petitioner to pay compensation of Rs.5 lakhs



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to the 2nd respondent.

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In Both W.Ps

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

For Respondents : R1 – Labour Court
R2 – Mr.R.Arumugham

COMMON ORDER

Writ Petition No.23579 of 2013 challenges the award of the labour court in I.D.No.283 of 2008 dated 11.07.2013. Writ Petition No.23580 of 2013 challenges the award of the labour court in I.D.No.284 of 2008 dated 11.07.2013. Both the industrial disputes were disposed of by a common order. Hence, both the writ petitions are being disposed of by this common order.

2. The second respondent in these writ petitions were in the employment of the writ petitioner. They were working in the Accounts department and were terminated from service on 14.11.2005. On 24.11.2005 they have raised industrial disputes. The conciliation failed on 20.02.2006 and thereafter Section 2A petitions were filed on 04.10.2008. The said petitions were numbered as I.D.Nos.283 of 2008 and 284 of 2008. In the said proceedings, the second respondent in the respective writ petitions examined themselves as witness and marked the order of termination and the copy of the Section 2A petition. The



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writ petitioner as the sole respondent, examined its Personnel Manager one Mr.Madhusudhana Rao. The said Madhusudhana Rao had categorically admitted that no show cause notice was given, no enquiry was conducted and the order of termination was passed immediately. The labour court found that this is an infraction of Section 25F of the Industrial Disputes Act and therefore held the order to be void.

3. However, while moulding the relief the labour Court considered that the employees had been working from November 1990 and November 1993 respectively and have put in nearly about 15 years and 12 years of service respectively before they were abruptly terminated. Considering the facts, the labour court had awarded a compensation of Rs.5,00,000/- each in lieu of reinstatement in service. Challenging the same, the present writ petitions have been filed by the petitioner Management.

4. Mr.Anand Gopalan, learned counsel appearing for the writ petitioner Management would vehemently contend that the labour court had not applied its mind and the award is tainted with perversity.

5. The learned counsel appearing for the second respondent in both the



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writ petitions would submit that after careful examination of the evidence and the records before it the labour court had rightly come to the conclusion that the termination was contrary to Section 25F and had determined the compensation payable at Rs.5,00,000/-.

6. I have carefully considered the arguments on either side. It is on record that there was no proceeding initiated by way of a show cause notice or a charge memo having been issued by the writ petitioner management and straight away the employees were terminated by the order dated 14.11.2005. This, as pointed out by the labour court, is a violation of Section 25F of the Industrial Disputes Act and therefore it had rightly come to the conclusion that the termination was bad.

7. The learned counsel for the petitioner would argue that if the Tribunal found violation of Section 25F, it should not have granted compensation beyond the amount fixed by the Act. I am unable to agree with the said contention. Compensation is fixed not only taking into consideration the provisions of the Act but also the surrounding circumstances. To limit the power to determine the compensation only to the amount payable to the employee by the employer, in case he followed the provisions of the Act, would not only affect the jurisdiction of the Tribunal but would be fillip to the employer to arbitrarily terminate the



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employee and thereafter plead before the Court that even if his order of termination was bad, he would pay only the amount fixed by the Act.

Compensation also includes solatium for the loss of employment suffered by the employee. It has to take into consideration the loss sustained by him. It is an amount given to make amends for the loss. It is an exercise of discretion of trial court which had the benefit of seeing parties before it. It is in those circumstances that the Court has fixed Rs.5,00,000/- as compensation. This amount also not only includes the monies that the employee lost, but also to recompense her/him for the mental suffering that the person had undergone. The discretion exercised is not so arbitrary that it requires interference under Article 226 of the Constitution of India.

8. I do not find any illegality or perversity in the said order and therefore it is confirmed. Learned counsel for the writ petitioner Management would submit that as per the direction of the Court, a sum of Rs.1,50,415/- had been paid to the second respondent in W.P.No.23579 of 2013 and a sum of Rs.1,48,093/- had been paid to the second respondent in W.P.No.23580 of 2013. The writ petitioner Management is directed to pay the balance of the amount to the respective respondents within a period of four weeks from today.



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9. With the above direction, the writ petitions are dismissed. No costs.

Consequently, connected miscellaneous petitions are also dismissed.

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Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

The Presiding Officer

1st Additional Labour Court

Chennai.



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V. LAKSHMINARAYANAN, J.

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