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W.P.No.8068 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.8068 of 2023
and W.M.P.No.8328 of 2023

The Management,
Peria Karamalai Estate,
Peria Karamalai Tea Producing Company Ltd.,
Rep. by Legal Officer,
Mr.A. Selvan

... Petitioner

Vs.

Madasamy

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the proceedings of the Presiding Officer, Industrial Tribunal at Chennai, Tamil Nadu dated 28.11.2018 in Approval Petition No.64 of 2015 and quash the order passed therein.

For Petitioner : M/s.M. Suganya



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ORDER

Heard M/s.M. Suganya, learned counsel for the petitioner. In view of the order to be passed in this Writ Petition, no prejudice would be caused to the respondent and hence, notice to the respondent is hereby dispensed with.

2. On the basis of certain alleged misconduct, the respondent herein was dismissed from service on 24.10.2015. On the same date, the petitioner/Management claims to have filed an Approval Petition No.64 of 2015 before the Labour Court, which was dismissed through the impugned order dated 28.11.2018. The Management had thereafter reinstated the petitioner back into service on 04.03.2019. In the meantime, the respondent had filed a Claim Petition in CP.No.316 of 2022 under Section 33(C)(2) of the Industrial Disputes Act, 1947, claiming a sum of Rs.3,13,529/- towards the backwages for the period of non-employment between 24.10.2015 to 03.03.2019, together with interest @ 12% p.a. The Management now challenges the order rejecting the Approval Petition.



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3. Though the order rejecting the Approval Petition was passed way back on 28.11.2018, the Management had not chosen to challenge the same in time and apparently, when the respondent has filed Claim Petition on 23.05.2022, the Management has woken up from slumber and had chosen to challenge the rejection of the Approval Petition after more than 4 ½ years. The only reason assigned for delay in challenging this order is that the earlier Legal Advisor of the petitioner/Management, had not informed the Management about the rejection order. Such an explanation, is unacceptable. Further, when the Approval Petition was rejected in the year 2018, the respondent would be entitled for all the backwages, which has been deprived to him over a period of five years. At this point of time, entertaining the present Writ Petition after an inordinate delay of more than 4 ½ years, would cause more prejudice to the workman.

4. This apart, the Industrial Tribunal, while dealing with the petitioner's Approval Petition, had perused the documents before it, pertaining to the domestic inquiry proceedings and has rendered a finding that a bonafide inquiry was not conducted by the Inquiry



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Officer. Such a reason is in conformity with the exceptions provided by the Hon'ble Supreme Court in the case of '*Lalla Ram Vs. D.C.M. Chemical Works Ltd. & another*' reported in '*(1978) 3 Supreme Court Cases 1*'. When the inquiry itself was not in accordance with the principles of natural justice, the rejection of the petitioner's Approval Petition, which is in conformity with the findings of the Hon'ble Supreme Court in *Lalla Ram's case (supra)*, cannot be found fault with. Hence, on the merits of the challenge made to the rejection of the Approval Petition also, the petitioner will not be entitled to succeed.

5. For all the foregoing reasons, I do not find any merit in the present Writ Petition. Accordingly, the Writ Petition stands dismissed. No costs. Connected miscellaneous petition is closed.

16.03.2023

Speaking/Non-speaking Order
Internet: Yes/No
Index: Yes/No
Neutral Citation: Yes/No

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To
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Presiding Officer,
Industrial Tribunal at Chennai,
Tamil Nadu.



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M.S.RAMESH, J.

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