



WEB COPY



W.P.No.25425 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25425 of 2013

The Management,
Sathanantham Transport,
Represented by its Proprietor
V.Sathanantham,
Thambi Nilayam,
Udayapatti, Salem.

... Petitioner

-Vs-

1. The Presiding Officer,
Labour court, Salem.

2.K.Sidthan (Deceased)

3.S.Valli

4.S.Yasodha

5.M.Sathiya

6.K.Sudha

7.S.Sivakumar

(R3 to R7 are substituted as LR's of deceased
second respondent vide order dated 27.07.2023
made in W.M.P.No.21299 of 2023 in
W.P.No.25425 of 2013)

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, after calling for the records relating to the order dated 08.05.2013 passed by the first respondent in Industrial Dispute No.100 of 2007 and quash the same, as being illegal, perverse and unjust, award costs.



W.P.No.25425 of 2013

For Petitioner : M/s A.Sri Jayanthi

For Respondents : R1 - Court

: R2 - Died (steps taken)

:

Mr.Perumbulavil Radha Krishnan

for R3 to R7

ORDER

This Writ Petition has been filed challenging the award passed by the first respondent in I.D.No.100 of 2007, dated 08.05.2013, whereby, the order to reinstate the second respondent into service with 50% backwages and other attendant benefits.

2. During the pendency of the Writ Petition, the second respondent died and his legal heirs were impleaded as respondents 3 to 7.

3. Heard the learned counsel for the petitioner/Management and the learned counsel appearing for the respondents 3 to 7 and perused the materials available on record before this Court.

3. The petitioner/Management had taken a specific stand that they never terminated or dismissed the service of the deceased second respondent. He himself voluntarily absented from his duty from 15.08.2006. He abandoned his duty and



W.P.No.25425 of 2013

even when the Management were ready to provide job, the workmen declined to accept the job before Conciliation Officer. Therefore, the intention of the workmen was only to get money from the Petitioner/Management.

4. The learned counsel for the petitioner/Management submitted that the case of the workmen is that he was working for 38 years which cannot be treated and the same is not proved by the workmen. Since, he was working from the year 1993 as a Conductor. That apart, the workmen himself have absented voluntarily from his duty and abandoned his employment from 15.08.2006. The learned Labour Officer, Salem by his Conciliation Report dated 19.02.2007 had categorically found that the workmen was not interested in joining the work though the job was offered by the Management to join the job, he failed to do so and he wanted only the monetary benefits.

5. On perusal of the records, it is seen that the workmen was employed under the petitioner/Management as a Conductor for the past 38 years. When the workmen demanded for ESI, PF gratuity, minimum wages and other labour enforcing measures, in order to take vengeance against him, the petitioner/Management terminated his service without giving any prior notice. That apart, the petitioner/Management offered employment and as such the



W.P.No.25425 of 2013

Conciliation Failure Report was sent by the Labour Officer, Salem.

WEB COPY

6. That apart, the learned petitioner/Management rightly stated that they offered employment to the workmen; they failed to send any notice offering employment to the workmen. In fact, the petitioner/Management did not have taken any action against the workmen for his unauthorised absence to his duty, even though the workmen worked continuously in the Management for more than 38 years and they ought not to have sent proper notice in order to settle the entire amount. Therefore, the Court below/first respondent had rightly ordered reinstatement of the workmen with 50% of backwages and other attendant benefits. However, now the said workmen died and his legal heirs are substituted as respondents 3 to 7 herein. Hence, the reinstatement into the service need not arise and the respondents 3 to 7 are entitled to get monetary benefits as awarded by the Court below. Hence, the Writ Petition is dismissed and the petitioner/Management shall settle all the monetary benefits as ordered by the Court below within a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is dismissed. No costs.

10.08.2023



W.P.No.25425 of 2013

gba

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

To

1. The Presiding Officer,
Labour court, Salem.
2. The Public Prosecutor,
High Court, Madras.



WEB COPY



W.P.No.25425 of 2013

G.K.ILANTHIRAIYAN, J.

gba

W.P.No.25425 of 2013

10.08.2023