



W.P.No.5437 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.5437 of 2018

and

W.M.P.No.6702 of 2018

Vellakovil Sarvodaya Sangam,
Rep. by the Secretary,
Head Office,
Vellakovil – 638 111,
Tiruppur District.

... Petitioner

-Vs-

1.The Presiding Officer,
Labour Court,
Salem.

2.P.Arumugam

... Respondents

Prayer: Writ Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned award dated 22.09.2017 (served on 17.01.2018) made in I.D.No.223 of 2010 on the file of the Labour Court, Salem and quash the same.

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For Petitioner : Mr.N.Manokaran

For Respondents : Labour Court [R1]
Mr.M.Gnanasekar [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking to quash the award dated 22.09.2017 in I.D.No.223 of 2010 on the file of the first respondent.

2. The second respondent joined in the services of the petitioner as Manager in the year 1978. Thereafter, he was demoted from the post of Manager to Assistant. In view of the conduct of the second respondent, some unwarranted problems were created adverse to the interest of the petitioner. Therefore, the second respondent was issued with a charge memo, for which, he submitted his explanation. As the explanation offered was not found satisfactory, the petitioner initiated departmental proceedings in accordance with the relevant Rules. The second respondent remained *ex-parte* during the conduct of the disciplinary proceedings. After conducting



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the enquiry, a report was given, pursuant to which, the second respondent was dismissed from service by order dated 07.06.2010. Subsequently, the second respondent initiated conciliation proceedings, which ended in failure. Therefore, he filed the industrial dispute before the first respondent seeking to set aside the dismissal order dated 07.06.2010 and reinstate him into the services of the petitioner with back wages, continuity of service and costs of the dispute. In that, the petitioner filed a detailed counter and contested the same. Before the first respondent, the second respondent examined himself as P.W.1 and marked Ex.P.1 to Ex.P.10. On the side of the petitioner, M.W.1 to M.W.5 were examined besides marking Ex.M.1 to Ex.M.53. Ultimately, the first respondent allowed the industrial dispute by the impugned award, set aside the dismissal order dated 07.06.2010 and directed the petitioner to reinstate the second respondent with full back wages, bonus, increment and all other attendant benefits within a month and also awarded costs to the tune of Rs.10,000/- payable to the second respondent. Challenging the same, the petitioner is before this Court mainly on the ground that the second respondent attained the age of superannuation



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during the pendency of the industrial dispute and that the first respondent, without considering this aspect, directed the petitioner to reinstate him into the service.

3. The learned counsel appearing for the petitioner submitted that, the petitioner decided to pay 50% backwages with admissible gratuity amount as per the last drawn wages. As per the last drawn wages, the second respondent is entitled to the gratuity amount to the tune Rs.4,00,095/- and 50% backwages workouts to the tune of Rs.2,48,619/-. If the second respondent agrees to receive the said amounts, this Court may close this writ petition in terms of the above settlement.

4. During the pendency of this writ petition, the second respondent filed a memo dated 26.09.2023 stating that during the hearing of the writ petition, the petitioner agreed to implement the impugned award with a modification to pay 50% back wages as against 100% back wages as awarded by the first respondent. He also sought a direction to the petitioner



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to pay the contribution towards provident fund.

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5. The second respondent along with his counsel appeared before this Court today and submitted that he is ready to receive 50% of the backwages of Rs.2,48,619/-. However, the gratuity amount of Rs.4,00,095/- is not in terms of the Payment of Gratuity Act, 1972 and higher amount was paid to other employee. Hence, he submitted that, without prejudice to his rights, he agrees to receive Rs.4,00,0095/- as offered by the petitioner and seeks liberty to workout the remedy in the manner known to law with regard to balance gratuity amount alone, if any.

6. In view of the settlement arrived between the parties, the petitioner management is directed to pay the gratuity amount of Rs.4,00,095/- and 50% backwages of Rs.2,48,619/- to the second respondent within a period of six (6) weeks from the date of receipt of a copy of this order. Further, liberty is granted to the second respondent to workout the remedy in the manner known to law in respect of the balance gratuity amount alone, if so advised. It is made clear that the petitioner management is at liberty to raise



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all their objections before the concerned authorities.

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M.DHANDAPANI,J.,

sp

7. With the above directions, this writ petition is disposed of. The memo dated 26.09.2023 filed by the second respondent is placed on record. No costs. Consequently, the connected miscellaneous petition is closed.

26.09.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
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To

The Presiding Officer, Labour Court, Salem.

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