



W.P.No.20924 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20924 of 2016

and W.M.P.No.17925 of 2016

The Management
M/s.Carborandum Universal Limited
C4 & C5, Kamarajar Salai,
MMDA Industrial Complex,
Maraimalai Nagar,
Kancheepuram District
Rep by its General Manager-Manufacturing
K.Omprakash

.. Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court, Chennai.

2. S.Purushothaman

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate writ or direction and call for the records in connection with I.D.No.27 of 2009 passed by the first respondent, Presiding Officer, Principal Labour Court and quash the award dated 31.03.2016.



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For petitioner : Mr.Manohar Gupta
for M/s.Gupta & Ravi

For Respondents : No appearance for R2

ORDER

The petitioner has filed this Writ Petition assailing the impugned award of the 1st respondent/Labour in I.D.No.27 of 2009.

2. When the Matter was listed for hearing on multiple occasions, there was no representation on behalf of the 2nd respondent. In order to give one more opportunity to the 2nd respondent, the matter was again directed to be listed today. Even today, none represented on behalf of the 2nd respondent. Considering the pendency of this Writ Petition which is of the year 2016, based on the materials available on record, this Court is inclined to dispose of this Writ Petition.

3. It is the case of the petitioner that the 2nd respondent was working as an operator in the petitioner management. During working hours, the 2nd respondent had sexually assaulted one Ms.Suguna, who was working as a Canteen Assistant. In view of the said misconduct, the 2nd



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respondent was dismissed from service on 05.07.2008. Challenging the dismissal order, the 2nd respondent had raised a dispute under the Industrial Disputes Act, 1947 in I.D.No.27 of 2009 before the 1st respondent/Labour Court wherein, the Labour Court has ordered reinstatement and backwages with all other attendant benefits. Challenging the same, the present Writ Petition has been filed by the management.

4. Learned counsel for the petitioner management submitted that in view of the allegations levelled against the 2nd respondent/workman, enquiry was conducted by the management wherein he was given an opportunity of personal hearing to putforth his case. Since, no acceptable evidences were placed by the workmen in order to disprove the charges levelled against him and also taking into consideration the grave act of his misconduct, he was dismissed from service. The present impugned award came to be passed by the 1st respondent/Labour Court without even examining the victim namely Suguna and also without considering the fact of grave misconduct of the workman. Therefore, this Court may modify the award of reinstatement by fixing a fair compensation amount.

5. The facts in the present case are not in dispute. The award



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under challenge has been passed mainly on the ground that no materials have been placed by the management to prove the charge of sexual misconduct of the 2nd respondent/workman. It is the case of the management that the victim namely, Suguna who was sexually assaulted by the workman, has not been examined by the Labour Court while passing the impugned award and the award of reinstatement has come to be passed in favour of the workman. However, it is seen from the records that the name of the workman has not been mentioned in the complaint given by the victim as also no show cause notice was issued to the workman and no explanation is sought from the workman with regard to the alleged misconduct which clearly shows that no opportunity of personal hearing was given to the workman. Thus, the management has failed to prove the charge of sexual misconduct against the petitioner.

6. However, considering the grievousness of the alleged misconduct as against the 2nd respondent/workman and also in order to give quietus to the issue, this Court is inclined to modify the award in I.D.No.27 of 2009 by fixing a fair compensation to be paid to the workman instead of reinstating him into service. Accordingly, the petitioner management is



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directed to pay a sum of Rs.5,00,000/- towards compensation to the 2nd respondent/workman within a period of four weeks from the date of receipt of a copy of this order.

7. This Writ Petition stands disposed of with the above direction and modification. There shall be no order as to costs. Consequently, the connected Miscellaneous petition stands closed.

13.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

The Presiding Officer,
Principal Labour Court,
Chennai.

M.DHANDAPANI, J.

NHS



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