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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.06.2023

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THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.Nos. 4266 & 8887 of 2013

And

M.P.No. 1 of 2013

W.P.No. 4266 of 2013:

Management

Minami Metals Private Ltd.,

No.174/1A, Munusamy Street,

Vanagaram, 3rd Main Road,

Athipet,

Ambattur Industrial Estate

Chennai – 600 058.

... Petitioner

..Vs..

1. The Presiding Officer
Labour Court,
Chennai.

2. C.S.Nirmal Kumar

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the concerned records from the first respondent, quash the Award passed by the first respondent Labour



Court dated 11.12.2012 in I.D.No. 169 of 2006 only in so far as granting the relief of continuity of service.

For Petitioner :: Mr. Balan Haridas

For 2nd Respondent :: Mr.K. Bharathi

W.P.No. 8887 of 2013:

C.S.Nirmal Kumar

... Petitioner

..Vs..

1. The Presiding Officer
1st Additional Labour Court,
City Civil Court Buildings,
Chennai – 600 104.
2. The Management
Minami Metals Private Ltd.,
No.174/1A, Munusamy Street,
Vanagaram, 3rd Main Road,
Athipet,
Ambattur Industrial Estate
Chennai – 600 058.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records and papers from the files of the 1st respondent in I.D.No. 169/2006 and quash the impugned award made therein dated 11.12.2012 in so far as the 1st respondent has denied the petitioner's claim for back wages and all other attendant benefits.



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For Petitioner :: Mr.K. Bharathi

For 2nd Respondent :: Mr. Balan Haridas

COMMON ORDER

Both these Writ Petitions challenge the award of the Labour Court in I.D.No. 169 of 2006.

2. The petitioner in W.P.No. 8887 of 2013 was working as a Press Operator with the Management. He was drawn a monthly salary of Rs.2,500/-. According to him, he was terminated from service with effect from 28.05.2005.

3. The management would contend that they had never terminated the petitioner/workman from service. On the contrary, the Management would contend that the petitioner/workman had abandoned the service.

4. Mr. Balan Haridas, learned counsel appearing for the second respondent would draw my attention to several correspondences to show



that the Management had taken several efforts and literally invited the petitioner/workman. He avoided all the correspondences and had taken a stand that he will report for service if only he has paid the same salary as that of the other workman who had been appointed on the same day.

5. Mr. K.Bharathi, learned counsel appearing for the second respondent in W.P.No. 4266 of 2013 /petitioner in W.P.No. 8887 of 2013 would draw my attention to the evidence of MW-1, HR Manager, to show that the case of the Management is false and the HR Manager has specifically admitted that on 27.05.2005 the petitioner/workman had been dismissed from service.

6. The Labour Court had gone into the issue in detail, relying upon the statement of the petitioner/workman that he is willing to join service, ordered reinstatement without back wages, but with continuity of service. Challenging the same, W.P.No. 4266 of 2013 has been filed by the Management. In so far as the denied portion of back wages is concerned, the petitioner/workman has filed W.P.No. 8887 of 2013.



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7. I have carefully considered the arguments on either side.

8. It is pertinent to point out that when the matter is pending before the Conciliation Officer, a specific stand was taken by the Management that they are willing to accommodate the petitioner/workman but yet he proceeded to file I.D.No. 169 of 2006.

9. The learned counsel would point out that the persons, who had been appointed along with the petitioner/workman, had been paid a salary of Rs.14,000/-; whereas when the petitioner/workman was reinstated in service, a sum of Rs.6,000/- was only paid as salary. Even if at the time of rejoining the duty pursuant to the statement made before the Labour Court, there was a difference of salary of Rs.8,000/-.

10. Both sides would agree that subsequent to the order of the Labour Court, the petitioner/workman was reinstated in service and dismissed from service again and the said dismissal was challenged before the Labour Court in I.D.No. 2 of 2014, which also ended in a dismissal on 16.04.2019.



11. On a query to either side, they would state that the petitioner/workman has not challenged the order of dismissal.

12. Be that as it may, it is on record on the statement made by the Management witness MW-1 that the petitioner/workman was not paid the same wages as his co-employees, who were employed in and around the same time as he was. The Management has taken a stand that they had never terminated him but had only offered lesser salary. This is clear from the cross examination of MW1 on 08.10.2012.

13. It is pertinent to note that the evidence on 08.10.2012 has come into existence after the petitioner/workman had rejoined in service on 01.09.2012. Instead of pushing the petitioner/workman to a separate proceedings and in order to shorten the litigation, I feel that interest of justice would be served if the award of the Labour Court is confirmed with a modification.

14. The modification being that the petitioner in WP.No. 4266 of 2013 (the Management) shall pay a sum of Rs.1,00,000/- towards compensation to the petitioner in W.P.No. 8887 of 2013.



WEB COPY 15. With the above modification, both the Writ Petitions stand dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.06.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Presiding Officer
Labour Court, Chennai.
2. The Presiding Officer
1st Additional Labour Court,
City Civil Court Buildings,
Chennai – 600 104.



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V. LAKSHMINARAYANAN, J.,

vsg

**W.P.Nos. 4266 & 8887 of 2013
And
M.P.No. 1 of 2013**

19.06.2023