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W.P.No.8783 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.8783 of 2013

B.Ravi

.... Petitioner

-Vs-

Harisons
Prop.ASE Hotel (P) Ltd.,
New No.12, Old No.315
Valluvarkottam High Road
Nungambakkam, Chennai 600 031.

.... Respondent

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records from the Principal Labour Court at Chennai in I.D.No.73/09 dated 16.11.2012 and quash the same and at the same time directing the respondent management to reinstate petitioner in service with effect from 08.05.2008 with all attended benefits eligible to the petitioner.

For Petitioner : Mr.S.Selvathirumurugan
For Respondent : Mr.M.R.Dharanichandar

ORDER

The petitioner challenges the award of the Labour Court, Chennai in I.D.No.73 of 2009 dated 16.11.2012. The respondent is running a hotel in which



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the petitioner joined for service on 01.05.1994. His last drawn wages was Rs.4,612/- per month. Till 2003, the bonus that used to be paid was 2½ months salary. From 2004 the bonuses were reduced, as the hotel was undergoing renovation. The petitioner did not receive the bonuses and he requested restoration of bonus at 2 ½ months salary as bonus. The respondent Management requested the petitioner to receive the cheque for the years 2004, 2005 and 2006. However, the petitioner refused to receive the same and insisted that unless and until 2 ½ months salary is given, he will not receive the bonus at all. Invoking Standing Order 16(a) of the Hotel Model Standing Orders, the petitioner was charged with willful insubordination and disobedience. This charge was given on 07.02.2008.

2. The petitioner responded to the same on 14.02.2008 denying the charges levelled against him. On receiving the explanation, the respondent did not conduct an enquiry, but gave him a severe warning by its order dated 04.03.2008. With this history, on 07.05.2008 charge sheet was issued stating that the petitioner was late for duty and left early. The petitioner was dismissed from service on 08.05.2008. Hence, he challenged the dismissal under Section 2A(2) of the Industrial Disputes Act before the Principal Labour Court, Chennai in I.D.No.73 of 2009.



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3. According to the respondent Management, the petitioner was, (i) indulged in willful insubordination and was deliberately making vicious and malicious statements against the management, (ii) he was constantly behaving violent with co-employees. Thus, left with no other option he was dismissed from service. In fact, the respondent would allege that the petitioner was emboldened to challenge Mrs.Sulekha Hariraj, wife of the Managing Director, which did not go well with the institution. He had also broken a crate of bottles causing loss.

4. On these facts, the labour Court took up the matter for evidence. The petitioner examined himself and marked W1 to W7 and the respondent examined M.W.1 to M.W.5 and marked Exs.M1 to M31. The labour Court came to a conclusion that the petitioner was in a habit of abusing co-employees. However, it found that no enquiry had been conducted prior to the termination of the petitioner and therefore passed the award in his favour. The petitioner had put in 14 years of service at the time of dismissal. Taking into consideration all the circumstances, instead of ordering reinstatement, the labour Court had awarded a compensation of Rs.5,00,000/-.

5. Mr.Selvathirumugan, learned counsel for the petitioner would submit that for no fault of the petitioner he was sent out of service. He had only been agitating his rights, which he is lawfully entitled to. He would further state that



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he had done no wrong doings, which were alleged against him, but only demanded for his due of 2 ½ months salary as bonus, which the management willfully and deliberately refused to pay. He would say that the alleged incident against the Managing Director's wife Mrs.Sulekha Hariraj is a false one.

6. Learned counsel for the respondent Mr.M.R.Dharanichandar would vehemently contend that they had let in evidence before the labour Court, especially in the form of M.Ws 1 and 2 in order to substantiate their case. The labour Court had rightly come to the conclusion that the petitioner could not be taken back in service and he is entitled only to a compensation that was fixed. He would point out that the Management had not challenged the award only on account of the fact that they do not want to send him out of the employment empty handed.

7. Here is a case, where the petitioner has been a sort of a rebel. He had been demanding rights for himself, which had resulted in altercation with those in the Management. I agree with Mr.Selvathirumurugan that there is no evidence to show that the petitioner misbehaved with the wife of the Managing Director. The evidence of M.W.5 does not go to that extent. Be that as it may. The labour court has correctly come to the conclusion that the petitioner cannot be reinstated in service but only for an award of compensation of Rs.5,00,000/-



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8. Considering the overall circumstances including the fact that the petitioner was out of employment since 2008 and he was drawing a salary of Rs.4612/- per month, I feel justice would be served if the amount of compensation is enhanced from Rs.5,00,000/- to Rs.9,00,000/- (Rupees Nine Lakhs only). In all other respects, the writ petition stands dismissed.

9. In the light of the above, the writ petition is partly allowed. The compensation is enhanced to Rs.9,00,000/-, which shall be settled within a period of twelve (12) weeks from today. No costs.

15.06.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

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V. LAKSHMINARAYANAN, J.

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