



WEB COPY



W.P. Nos.25335 and 25336 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. Nos.25335 and 25336 of 2016
and
W.M.P.Nos.21646 and 21647 of 2016

The Management of Madras Gymkhana Club,
Represented by the Honorary Secretary,
Mr.A.P.Suresh Kumar,
Island Grounds,
No.1, Anna Salai,
Chennai – 600 002.
both W.P.s

... Petitioner in

Vs.

1. The Presiding Officer,
First Additional Labour Court,
Chennai.

...1st Respondent in both W.P.s

2. Mr.R.S.Gowrishankar (Employment No.397),
No.104/95, A.K.Samy, 4th Street,
Secretary Colony,
Chennai – 600 012.

... 2nd Respondent in W.P.No.25335 of 2016

3. Mr.M.Murugan (Employee No.555),
No.45, Gandhi Pettai, Uzhunthai Post,
Thirvallur District – 602 102.

... 2nd Respondent in W.P.No.25336 of 2016

Common Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records connected with I.D.Nos.16 and 17 of 2015 and quash the Award dated 12.04.2016 passed by the First Respondent i.e., The Presiding Officer, First Additional



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Labour Court, Chennai.

In both W.P.s

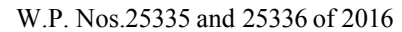
For Petitioner : Mr.S.Shivathanu Mohan for
M.s.S.Ramasubramaniam & Associates

For Respondents : Mr.K.Bharathi for R2

COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed of by way of this common order.

2. It is the case of the petitioner that the petitioner club is registered under the Societies Registration Act and the 2nd respondents in respective writ petitions were appointed as matey(catering) and runner by the petitioner management vide orders dated 07.06.1996 and 01.08.2013 respectively. Since the respective 2nd respondents indulged in unauthorized activities, they were issued with several show cause notices for misconduct of unauthorised absence and prohibitory activities, after which, termination order dated 13.05.2014 was passed by the petitioner. Aggrieved over the same, the respective 2nd respondents raised industrial disputes before the 1st respondent u/s.2(A)(2) of the Industrial Disputes Act, 1947 in I.D.Nos.16 and 17 of 2015 seeking backwages and continuity of service and reinstatement, wherein the 1st respondent vide Award dated 12.04.2016, directed the petitioner to reinstate the 2nd respondents along with 75% of backwages. Challenging the



3. The learned counsel for the petitioner submits that pursuant to the Award dated 12.04.2016 passed by the 1st respondent, the 2nd respondent was reinstated in service and the 2nd respondent in No. 25335 of 2016 passed away while working in the petitioner's service. He further submits that since the Award passed by the 1st respondent dated 12.04.2016 is partly complied with by the petitioner, the duty of reinstatement does not arise. Hence, the petitioner prays for appropriate orders.

4. The learned counsel appearing for the 2nd respondents in respective writ petitions submits that though the petitioner management reinstated the 2nd respondents in service, considering the work extracted by the petitioner management, this Court may pass appropriate orders with regard to backwages is concerned.

5. Heard the arguments advance on either side and perused the materials placed on record.

6. It is pointed out by the learned counsel for the petitioner that



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pursuant to the Award dated 12.04.2016, the 2nd respondents in respective writ petitions were reinstated in service and the 2nd respondent in W.P.No.25335 of 2016 passed away while working with the petitioner management. Hence, this Court, after considering the service rendered by the 2nd respondents in respective writ petitions, is inclined to modify the Award dated 12.04.2016 passed by the Labour Court in ID.Nos.16 and 17 of 2015 as hereunder:

(i) The petitioner is directed to pay 30% of the back wages to the second respondents from the date of termination till the date of reinstatement within a period of four (4) weeks from the date of receipt of a copy of this order.

7. Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

05.07.2023

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Index : Yes / No

Speaking order : Yes / No

NCC : Yes/No



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To

The Presiding Officer,
First Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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