



W.P.No.25901 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25901 of 2016

M/s.Reep Industries Private Limited,
A1, F4, Industrial Estate,
Maraimalai Nagar,
Kancheepuram District - 603 209.

... Petitioner

Vs.

1. The Presiding Officer,
III Additional Labour Court,
Chennai - 600 104.

2. J.Jacob

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records relating to the award dated 22.04.2016 in I.D.No.54 of 2008 of the first respondent and quash the same.



W.P.No.25901 of 2016

For Petitioner : Mr.Rangesh
for M/s.Jayaraman and Associates
For Respondents : Mr.V.Ajay Khose for R2
R1 - Labour Court

ORDER

The petitioner / Management has filed the present Writ Petition challenging the award in I.D.No.54 of 2008 passed by the first respondent / Labour Court dated 22.04.2016.

2. The case of the petitioner is that the second respondent was working with the petitioner Management and on the charge of theft, he was placed under suspension. Pending disciplinary action, on 28.08.2006, the domestic enquiry was conducted and based on the Enquiry Officer's report, the second respondent was awarded a punishment of dismissal from service. The second respondent challenged the said punishment of dismissal before the Labour Court and the Labour Court set aside the termination order, directing reinstatement to the second respondent with continuity of service, backwages and all other attendant benefits. Challenging the said award, the present Writ Petition has been filed.



W.P.No.25901 of 2016

WEB COPY

3. The learned counsel for the petitioner / Management reiterated all the contentions as stated in the affidavit and would submit that the Labour Court had erred in coming to the conclusion that the enquiry was not conducted in a fair manner. Since the second respondent / workman was given fullest opportunity to represent himself before the domestic Enquiry Officer and was also given an opportunity to examine the Management witness, the Labour Court has not considered the same, hence the learned counsel for the petitioner seeks to set aside the award passed by the Labour Court.

4. The learned counsel for the second respondent / workman submitted that the workman was not permitted to engage an Advocate and he was not permitted to recall the witness Nos.1 and 2 (Management witness) for cross-examination. It is also pertinent to note that two witnesses, ie., E.Sathish and Dhayalan have categorically stated that they have not seen the second respondent / workman in possession of the articles which were stolen and when the complainant of the incident one Devaraj



W.P.No.25901 of 2016

WEB COPY

was cross-examined, he stated that he gave the complaint two days after the incident, though it was dated 26.08.2006 which is the date of the incident. Hence, there were lot of contradictions between the complaint and the statement of the complainants and also the evidence of the two complainants. Hence, it is crystal clear that the domestic enquiry was not conducted in a fair and proper manner. Therefore, the learned counsel for the second respondent / workman submitted that the Labour Court had considered all the above factual aspects and the materials placed before it, had come to a conclusion that the termination was improper. Hence, the learned counsel seeks dismissal of the Writ Petition.

5. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

6. Taking consideration of over all facts and circumstances, this Court under Article 226 of the Constitution of India cannot go into factual



W.P.No.25901 of 2016

WEB COPY

matrix and conduct a *de novo* enquiry. However, the Labour Court had took into consideration the fact that the second respondent / workman was not gainfully employed after he was terminated by the petitioner / Management and thereby had ordered reinstatement with full backwages. It is now stated that the second respondent / workman died during the pendency of the Writ Petition and therefore ordering reinstatement would be of no avail and in the alternative, ends of justice would be met if the award passed by the Labour Court is modified by directing to pay a lumpsum amount as compensation.

7. Accordingly, this Writ Petition is disposed of by fixing fair compensation for a sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) which shall be paid to the legal heirs of the second respondent / workman within a period of eight weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

19.07.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
vji



W.P.No.25901 of 2016

WEB COPY

To

1. The Presiding Officer,
III Additional Labour Court,
Chennai - 600 104.
2. M/s.Reep Industries Private Limited,
A1, F4, Industrial Estate,
Maraimalai Nagar,
Kancheepuram District - 603 209.



WEB COPY



W.P.No.25901 of 2016

M.DHANDAPANI, J.

vji

W.P.No.25901 of 2016

19.07.2023