



W.P. No.26738 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.26738 of 2016
& WMP.No.22958 of 2016

The Superintendent of Postal Offices,
Nagapattinam Division,
Nagapattinam – 611 001.

... Petitioner

Vs.

1. Divisional Secretary,
All India Postal Employees,
Union Postman & MTS,
Nagapattinam Division,
Nagapattinam – 611 001.

2. The Presiding Officer,
Central Government Industrial Tribunal,
cum – Labour Court, Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the 2nd respondent relating to Award dated 04.07.2014 made in ID No.6 of 2014 and quash the same.

For Petitioner : Mr.V.Chandrasekaran

For R1 : No Appearance

ORDER

This is a petition filed by the petitioner seeking to quash the award

dated 04.7.2014 in I.D.No.6 of 2014 on the file of the second respondent.



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2. The facts leading to filing of this case are as follows :

(i) The work hours of the delivery establishment came down to 76 hours 46 minutes as against the staff timings of 90 hours in pursuance of the periodical review of Nagapattinam Head Office during the period 11.7.2011 to 16.7.2011. The test check figures of unregistered mails were taken into consideration on 26.4.2012 and 27.4.2012. During the relevant point of time, two vacancies of postman remained vacant in Nagapattinam Head Office and two outsiders were engaged against the vacant posts.

(ii) Hence, it was decided by the Department that there was a need for reduction of 2 posts of postman as against the sanctioned strength of 12 posts of postman. Since the branch needed only 10 posts of postman pending submission of proposal to the Regional Office for abolition of two posts of postman at Nagapattinam Head Office, the Department directed the Postmaster of Nagapattinam Head Office not to utilize the services of the outsiders in the two vacant posts with effect from 01.5.2012.

(iii) The work study policy framed by the Government was followed while calculating the work hours and the Department cannot deviate from the policy decision of the Government. Thereafter, the Secretaries of P3 and P4, Nagapattinam Division met the petitioner on



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01.5.2012 seeking 15 days' time as they intended to approach the Post Master General, Trichy Region. Therefore, the implementation of the decision was postponed for 15 days. However, without even referring the issue to the higher authorities, the first respondent union gave a notice on 09.5.2012 stating that they intended to go on strike from 31.5.2012.

(iv) In turn, the Regional Office instructed vide proceedings dated 18.5.2012 to adhere to the decision arrived and that due approval should be obtained from the competent authority before effecting reduction. Thereafter, a notice dated 21.5.2012 was received from the Assistant Commissioner of Labour, Pondicherry to attend the conciliation proceedings on 25.5.2012 so as to reach an amicable settlement. However, the conciliation ended in failure and that is how the matter was referred to the second respondent.

(v) Before the second respondent, the petitioner was set ex parte and only thereafter, the impugned award was passed directing the petitioner to revise the method of computing the work hour statement of postman establishment by compiling statistics for a month of 25 working days and refix the number of delivery beats required. The petitioner was also directed to restore the strength of postman establishment of Nagapattinam Head Office to 12 until refixation is done in the manner stated above. Challenging the same, the petitioner is before this Court.



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(vi) After passing of the award, the petitioner filed a miscellaneous petition in I.A.No.28 of 2015 to set aside the ex parte award. However, it was dismissed by the second respondent by order dated 27.5.2015 holding that the award was published in July 2014 itself and that the second respondent became functus officio after 30 days of publication of the award.

3. The learned counsel for the petitioner submits that though the reduction of delivery beats of Nagapattinam Division from 12 to 10 was the policy decision taken by the Government based on the statistical information, the second respondent mechanically passed the Award in favour of the first respondent union, which is per se unsustainable.

4. Heard the learned Senior Panel Counsel appearing on behalf of the petitioner. Though the first respondent was served and their name printed in the cause list, none appears for the first respondent nor any representative of the petitioner is present before this Court today when the case is called.

5. Admittedly the first respondent union raised a dispute before the conciliation officer as against the reduction of delivery beats of Nagapattinam Head Post Office from 12 to 10. It is seen that on the basis of



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the time factor stipulated for each item of job, the management came to a conclusion to reduce the number of Postmaster from 12 to 10, which is a policy decision taken by the Government and the same cannot be interfered with. If a policy decision is to be interfered with, it should be shown that it is arbitrary and perverse and it cannot be interfered with otherwise. However, the impugned award does not contain any plausible reason for interfering with the policy decision, which clearly shows non-application of mind on the part of the Labour Court. On the sole ground that there is no discussion in the impugned Award with regard to the reason for interference with the policy decision taken by the Government, the impugned Award is liable to be set aside. However, if any individual is aggrieved by the computation of working hours of Postman, liberty is granted to members of the union to work out their remedy in the manner known to law.

6. Accordingly, this writ petition is allowed in the above terms. No costs.

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Index : Yes / No

Speaking order : Yes / No

NCC : Yes/No



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To

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Nagapattinam Division,
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in
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Dispensed with for the present.

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