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In the High Court of Judicature at Madras

Dated : 08.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.28154 of 2016

The Management, M/s.Carborundum Universal Ltd. (Bonded Abrasives Division), Hosur rep.by its Senior Manager - HR ...Petitioner

Vs

1.The Presiding Officer,
Labour Court, Salem.

2.Mr.T.Chandiraprakash
C/O Carborundum Universal Workers Union (DRP 119),
Hosur. ...Respondents

Prayer: This petition is filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records connected with I.D.No.104 of 2010 and quash the award dated 28.1.2016 passed by the first respondent - the Presiding Officer, Labour Court, Salem.

For Petitioner : Mr.S.Ravi, SC for M/s.Gupta & Ravi

For Respondent-2: Mr.K.M.Ramesh, SC for Mr.Subramani

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ORDER

This is a petition filed by the petitioner seeking to quash the award dated 28.1.2016 in I.D.No.104 of 2010 on the file of the first respondent.

2. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned Senior Counsel appearing on behalf of the second respondent.

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

(i) The second respondent was working as an operator in the petitioner company. He was paid a sum of Rs.15,058/- towards last drawn wages. As the then wage settlement dated 29.4.2004 came to an end on 28.4.2008, the Carborundum Universal Employees Union gave a fresh charter demanding enormous hike in wages. Since the petitioner expressed their disagreement, on 22.11.2008, the second respondent along with a group of workmen gathered and parked their vehicles in front of the gate thereby preventing ingress and egress to the workmen and the staff. The

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second respondent was stated to have given an interview in a local television channel containing defamatory and slanderous remarks, which were detrimental to the goodwill and reputation of the petitioner company and which tarnished the image of the petitioner company in the eyes of the general public.

(ii) The second respondent was also stated to have given an interview to a private television channel spoiling the reputation of the petitioner company. The petitioner company, after taking into account the misconduct committed by the second respondent, dismissed him from service vide order dated 26.11.2008 after paying one month salary. At the instance of the second respondent, conciliation proceedings were initiated, which ended in dismissal. Thereafter, the industrial dispute was filed before the first respondent, to which, the petitioner filed a counter.

(iii) In addition to that, challenging the said order of dismissal, the second respondent also filed a writ petition in W.P.No.30036 of 2008 seeking to direct the Assistant Commissioner of Labour (Head Quarters), DMS Compound, Chennai-6 to initiate action against the petitioner company for terminating the second respondent from service. The said writ

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petition was dismissed by order dated 03.4.2012 directing the second respondent to raise all the grounds before the concerned Labour Court in the pending industrial dispute. After contest, the industrial dispute was allowed by the first respondent by the impugned award directing the petitioner to reinstate the second respondent with full back wages, continuity of service and all other attendant benefits. Aggrieved by that, the petitioner is before this Court.

4. When the matter came up for admission on 11.8.2016, while ordering notice of motion, this Court granted an order of interim stay as prayed for. Thereafter, two miscellaneous petitions in WMP.Nos. 29082 & 29083 of 2016 were filed by the second respondent seeking (i) to vacate the interim stay granted on 11.8.2016 in WMP.No.24289 of 2016; and (ii) to direct the petitioner to pay the second respondent the last drawn wages every month from the date of the award till date of disposal of this writ petition. Further, this Court, by order dated 07.6.2017, directed the petitioner to pay the back wages to the second respondent falling due from the month of June 2017 on 15th day of every month and a sum of Rs.5 lakhs

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was also directed to be paid towards arrears of back wages within eight weeks. With the above directions, WMP.No.29083 of 2016 was ordered and the order of interim stay already granted was made absolute.

5. The learned counsel for the petitioner management submits that during the pendency of this writ petition, the petitioner management paid a sum of Rs.10,99,235/- as 17(b) by way of back wages in favour of the second respondent and apart from that the management has also deposited a sum of Rs.5,00,000/- before the Labour Court. He further submits that since the second respondent has given an interview to a private television channel spoiling the reputation of the petitioner company, without conducting any enquiry the second respondent was terminated from service. Hence, this Court may fix a fair compensation to be payable to the second respondent, as it is not possible for the petitioner management to reinstate the second respondent in service.

6. Per contra the learned counsel for the second respondent submits that though it is alleged by the petitioner that the second respondent has

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given an interview to the local T.V.channel in order to spoil the reputation of the petitioner management, the management has not produced any evidence such as video clipping or reporters of the said channel before the Labour Court. He further submitted that though the enquiry was not conducted by the petitioner management, the second respondent was dismissed from service which is not sustainable. Hence, the impugned award passed by the Labour Court cannot be interfered with.

7. Heard the learned counsel appearing on either side and perused the materials placed on record.

8. Admittedly the services of the second respondent were availed by the petitioner as an operator and it is alleged by the petitioner management that the second respondent made huge demand and on 22.11.2008, he illegally gathered a group of workmen at the gate of the factory premises and parked their two wheelers in front of the gate, preventing the ingress and egress of the workmen and staff and thereafter on 24.11.2008 it is alleged that the second respondent has given an interview to a local City

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T.V. Channel by giving false and baseless information against the petitioner management that the Manager of the petitioner management took photographs of the employees who went to toilet for ten minutes, which prompted the management to dismiss the second respondent from service.

9. Though the facts stand as such, this Court is of the view that the interview given by the second respondent to the local TV channel as against the management was not appropriate and this Court cannot imagine the fact that how the employer photographed the toilet used by the workmen. In such circumstances, it would not be possible for the management to reinstate the second respondent in service and in order to strike balance between the petitioner and the second respondent, this Court is inclined to fix fair compensation in lieu of reinstatement. As the petitioner management has already paid a sum of Rs.10,99,235/- to the second respondent by way of 17-B wages and that apart the management has also deposited a sum of Rs.5,00,000/- before the Labour Court, apart from the above said amounts, this Court directs the petitioner to pay a further sum of Rs.5,00,000/- towards compensation to the second respondent within a period of four (4)

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weeks from the date of receipt of a copy of this order and the second respondent shall withdraw the sum of Rs.5,00,000/-, already deposited by the petitioner before the Labour Court with accrued interest.

10. With the above directions and observation this writ petition is disposed of. No costs.

08.8.2023

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

The Presiding Officer,
Labour Court, Salem.

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M.DHANDAPANI,J

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