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W.P. No. 2977 and 2978 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. Nos.2977 and 2978 of 2016
and W.M.P. Nos.2457 and 2458 of 2016**

The Management of
Dr.Navalur Nedunchezian College of
Engineering, Rep. By its Administrative Manager,
Tholudur, Tittakudi,
Cuddalore District.

... Petitioner in both the petitions

-VS-

1. P.Arumugam (Died)
2. The Presiding Officer
Labour Court, Cuddalore.
3. Mayavathi
4. Sujitha
5. Suguna
6. Manikumar

(R3 to R6 suo motu impleaded as legal heirs
of the deceased first respondent vide order
dated 18.07.2023 in WP.No.2977 of 2016 by
this Court)

... Respondents in W.P.no.2977 of 2016

1. A.Dhanapal
2. The Presiding Officer
Labour Court, Cuddalore.

....Respondents in W.P.no.2978 of 2016



W.P. No. 2977 and 2978 of 2016

Common prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records on the file of the second respondent relating to the impugned award of the second respondent dated 27.05.2015 passed in ID.No.10 and 11 of 2014 and quash the same.

For Petitioner : Mr.R.Arumugam (for both the petitions)
For Respondents : Mr.N.Thiyagarajan
For RR3 to 6 (in W.P.No.2977 of 2016)
For R1 (in W.P.no.2978 of 2016)
R2 - Court

COMMON ORDER

Since the matter involves in both the cases are one and the same, the same are disposed of by way of this common order.

2. These petitions have been filed seeking to quash the impugned order passed by the second respondent dated 27.05.2015 passed in ID.Nos.10 and 11 of 2014 respectively.

3. It is the case of the petitioner that the first respondent (herein after referred to as "workmen") in both the writ petitions was appointed in the year 2008 and 2011 respectively as Driver in the petitioner Management. The said workmen were unauthorized absent for duty from 05.11.2013 and 19.11.2013



W.P. No. 2977 and 2978 of 2016

respectively. In the year 2014, the workmen filed a claim petition before the Labour Court in ID.Nos.10 and 11 of 2014. The Labour Court, without considering the entire facts, passed an award in favour of the workmen and directed the petitioner Management to reinstate them for service along with back wages. Challenging the said order, the petitioner Management has filed both the writ petitions before this Court.

4. The learned counsel for the petitioner submitted that admittedly the first respondent in both the petitions have joined duty in the year 2008 and 2011 as driver. On their own, they did not attend duty and thereafter, they made a claim before the Labour Court as if there was an oral termination. Without conducting enquiry, the Labour Court passed an award in favour of the workmen, which is perverse and there is no merit in the impugned orders.

5. The learned counsel for the private respondents submitted that during pendency of these writ petition, the workman died and the legal heirs have impleaded as party in the writ petition. The learned counsel further submitted that the workmen were entered into service in the year 2008 and 2011 respectively. Initially, the salary was fixed at Rs.2,000/- and the same was increased upto Rs.6000/- and provident fund has also deducted from the



W.P. No. 2977 and 2978 of 2016

workmen's salary. All of a sudden, the petitioner Management collected key from the workmen and passed a oral termination. After adjudication, the Labour Court passed an award for reinstatement with back wages, which cannot be interfere with. However, during pendency of the writ petitions, the workmen passed away and therefore, there is no question about reinstatement. This Court may fix fair compensation to the legal heirs.

6. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the first respondent entered into service in the year 20008 and 2011 respectively with the petitioner Management as driver. Whereas the petitioner Management claimed that the first respondent in W.P.No.2977 of 2016 has joined duty in the year 2013 and the said fact has elaborately discussed by the Labour Court and arrived at a conclusion that the said workman has entered into service in the year 2008 and rendered service for 24 months without any break. Admittedly there was an oral termination passed against the workmen and after conducting detailed enquiry, passed an award in favour of the workman.



W.P. No. 2977 and 2978 of 2016

8. During pendency of the writ petitions, the workmen died on 04.05.2020 and 27.12.2022 respectively and legal heirs have impleaded subsequently. Therefore, there is no question of reinstatement of service. In such view of the matter, this Court is inclined to pass the following orders:

"1. The petitioner Management is directed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) as compensation in respect of the first respondent/workman in W.P.No.2977 of 2016 as full quit to the legal heirs within a period of four weeks from the date of receipt of a copy of this order;

2. The petitioner Management is directed to pay a sum of Rs.1,50,000/- (Rupees One lakh fifty thousand only) as compensation in respect of the first respondent/workman in W.P.No.2978 of 2016 as full quit to the legal heirs within a period of four weeks from the date of receipt of a copy of this order."

9. With the above modification, both the writ petitions are disposed of. Consequently, the connected Miscellaneous Petition(s) is/are closed. No costs.

24.07.2023

Rli

Index: Yes/No

NCS : Yes/No



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To

The Presiding Officer
Labour Court, Cuddalore.



W.P. No. 2977 and 2978 of 2016

M.DHANDAPANI, J.

Rli

W.P. Nos.2977 and 2978 of 2016

24.07.2023