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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.12213, 13898, 13774, 13809, 13912, 14016, 14033, 13895 of 2019
and W.M.P.Nos.7390, 6629, 12491, 13962, 13856, 13882, 13973, 14073, 14099,
13961 of 2019
and W.M.P.Nos.22173, 22177, 22181 & 22183 of 2020

W.P.No.12213 of 2019

The Management of Aryan Granites
& Monuments (P) Ltd.,
“Subagraha”,
Plot No.1, Ground Floor,
Adayar,
Chennai-600020

.. Petitioner

Vs.

C.Davanbu

.. Respondent

Prayer in W.P.No.12213 of 2019: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other appropriate Writ, Order or Direction to call for the records and quash the Award dated 13.11.2018 passed in I.D.No.327 of 2009 by the Presiding Officer, III Additional Labour Court, Chennai.



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For petitioner
(in all Petitions) : Mr.Meenakshisundaram

For Respondents : Mr.V.Ajay Khose
(in W.P.Nos.12213, 13912, 14016, 13895 of 2019)

: Mr.S.T.Varadarajulu
(in W.P.Nos.13898, 13774, 14033, 13809 of 2019)

COMMON ORDER

Since the issue involved in all the Writ Petitions are one and the same, these petitions are disposed of by way of this common order.

2. Challenging the impugned award of the III Additional Labour Court, Chennai in ID.Nos.327, 331, 330, 326, 332, 328, 329 of 2009 & I.D.No.331 of 2010, the above Writ Petitions have been filed.

3. For the sake of convenience, the petitioner in respective Writ Petitions will be referred to as “*Management*”. The 3rd Respondent in respective Writ Petitions will be referred to as “*Workmen*”.



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4. The Management is engaged in the manufacturing of granite monuments wherein, the workmen in respective Writ Petitions were employed on piece rate basis. Due to continuous power crisis, they were retrenched from services on 13.01.2009. Challenging their retrenchment, the workmen raised an Industrial Dispute under Section 2A of the Industrial Disputes Act before the Assistant Commissioner of Labour (Conciliation) seeking reinstatement. Since, the conciliation proceedings ended up in failure, they raised an Industrial Dispute before the III Additional Labour Court, challenging their retrenchment, wherein, the Labour Court has ordered reinstatement with full backwages and continuity of service. Challenging the Award passed by the Labour Court, the petitioner management has filed the above Writ Petitions.

5. Learned counsel for the management submitted that during the pendency of these Writ Petitions, some of the workmen were reinstated into service and the remaining workmen will be reinstated within a period of four weeks. Further, the workmen who were reinstated have agreed to receive 50% of the backwages after deducting the amount which was already paid under Section 17B of the ID Act.

6. Learned counsel for the respondent submitted that the employees were employed on monthly rate basis and they were employed for more than several years and they raised the dispute under Section 2A of the Industrial



Disputes Act for reinstatement and continuous employment. After appreciation of entire facts, the Labour Court ordered for reinstatement with full back wages which does not call for any interference by this Court.

7. Considering the facts and circumstances of the case and the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent, the petitioner Management claims that the employees were employed on piece rate basis and they were not in continuous employment. It is seen that some of the workmen have been reinstated and the remaining workmen have to be reinstated, and considering the financial constraints of the management, in order to give a quietus to the dispute between the workmen and the management, this Court is inclined to award 50% back wages. Accordingly, the award passed by the Labour Court is modified as follows: -

(i) the Petitioner Management is directed to reinstate the remaining workmen within a period of four weeks (4) from the date of receipt of a copy of this order. Insofar as the workmen who were already reinstated into service, the management is directed to fix the regular pay on par with the other employees.

(ii) the respective workmen are not entitled for 100% backwages, however, they are entitled for only 50% backwages which shall be paid to them after deducting the 17B wages which was already paid by the management.

(iii) All workmen are entitled for all other benefits including the continuity of service.



8. With the above modifications, these writ petitions are disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

23.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No

NHS



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M.DHANDAPANI, J.

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W.P.Nos.12213, 13809, 13912, 14016,13898
13774,14033, 13895 of 2019
and W.M.P.Nos.7390, 6629, 12491, 13962,
13856, 13882, 13973, 14073,
14099, 13961 of 2019
and W.M.P.Nos.22173, 22177,
22181 & 22183 of 2020

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