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W.P.No.13406 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.13406 of 2018

And

W.M.P.No.15804 of 2018

The Management
Christian Medical College and Hospital
Ida Scudder Road
Vellore – 632 004
Rep. by its Nursing Superintendent

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Vellore.

2.S.Vigilal

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records connected with C.P. No.115 of 2015 and to quash the award dated 26.03.2018 passed by the first respondent i.e., Presiding Officer, The Principal Labour Court, Vellore.



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For Petitioner : Mr.Sanjay Mohan
for M/s.Ramasubramaniam and Asso.

For Respondents : R1 – Labour Court
R2 – No Appearance

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records connected with C.P.No.115 of 2015 and to quash the award dated 26.03.2018 passed by the Presiding Officer, Principal Labour Court, Vellore.

2.The case of the petitioner is that the petitioner is a Minority Educational Institution contemplated under Article 30(1) of the Constitution of India and registered under the Societies Registration Act. The second respondent is a qualified professional nurse with Diploma in General Nursing and Midwifery and she was appointed as a Staff Nurse Grade V by the petitioner Management with effect from 06.08.2001 and was promoted as Staff Nurse Grade IV and was further promoted as Staff Nurse Grade III and was further promoted as Staff Nurse Grade II. Whiles, she submitted letter of resignation and the same was accepted by the petitioner Management.



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3.The further case of the petitioner is that thereafter, the second respondent raised industrial dispute in I.D.No.71 of 2014 under Section 2-A(2) of the Industrial Disputes Act, before the Principal Labour Court, Vellore, seeking reinstatement with continuity of service, backwages and all other attendant benefits and the said industrial dispute was allowed by the Labour Court on 10.10.2014. Challenging the award dated 10.10.2014, the petitioner filed W.P.No.3248 of 2015 before this Court and the same is pending.

4.The further case of the petitioner is that while such being the position, the second respondent filed C.P.No.115 of 2015 before the Principal Labour Court, Vellore, seeking to compute the wages and other benefits due to her and the Labour Court vide order dated 26.03.2018 allowed the petition and directed the petitioner to pay a sum of Rs.4,21,382/- to the second respondent after deducting the statutory deductions. Challenging the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner submitted that this Court vide order dated 06.06.2018 made in W.M.P.No.15804



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of 2018 in W.P.No.13406 of 2018 granted an order of interim stay on condition to deposit the entire amount, pursuant to which, the petitioner has deposited the entire amount to the credit of C.P.No.115 of 2015. However, C.P.No.115 of 2015 was allowed by the Principal Labour Court, Vellore, based on the award dated 10.10.2014 passed in I.D.No.71 of 2014.

6.The learned counsel appearing for the petitioner further submitted that since the award dated 10.10.2014, has been challenged by the petitioner in W.P.No.3248 of 2015 before this Court and the said writ petition is pending, this Court may close this writ petition by granting liberty to the petitioner as well as the second respondent to withdraw the amount already deposited to the credit of C.P.No.115 of 2015 subject to the result of the writ petition in W.P.No.3248 of 2015 and this Court may restrain the Principal Labour Court, Vellore, from disbursing the amount to either parties.

7.Though the name of the second respondent has been printed in the cause list, there is no representation for the second respondent. Considering the pendency of the writ petition, this Court is inclined to



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proceed with the case and decide the same based on the materials available on record.

8. Admittedly, the second respondent is a qualified professional nurse with Diploma in General Nursing and Midwifery and she was appointed as a Staff Nurse by the petitioner Management. The second respondent submitted letter of resignation and the same was accepted by the petitioner Management, however, the second respondent raised industrial dispute in I.D.No.71 of 2014 under Section 2-A(2) of the Industrial Disputes Act, before the Principal Labour Court, Vellore, seeking reinstatement with continuity of service, backwages and all other attendant benefits and the said industrial dispute was allowed by the Labour Court on 10.10.2014.

9. Challenging the award dated 10.10.2014, the petitioner filed W.P.No.3248 of 2015 before this Court and the same is pending. Whiles, the second respondent filed C.P.No.115 of 2015 before the Principal Labour Court, Vellore, seeking to compute the wages and other benefits due to her and the Labour Court vide order dated 26.03.2018 allowed the petition and directed the petitioner to pay a



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sum of Rs.4,21,382/- to the second respondent after deducting the statutory deductions.

10.C.P.No.115 of 2015 was allowed by the Principal Labour Court, Vellore, based on the award dated 10.10.2014 passed in I.D.No.71 of 2014. Hence, considering the fair submission made by the learned counsel appearing for the petitioner, this Court pass the following order:

(i)The second respondent is entitled to the amount awarded by the Principal Labour Court, Vellore, in C.P.No.115 of 2015 if she succeed in the writ petition in W.P.No.3248 of 2015 filed by the petitioner before this Court.

(ii)Till the disposal of the writ petition in W.P.No.3248 of 2015, the Principal Labour Court, Vellore, shall not disburse the amount already deposited by the petitioner to the credit of C.P.No.115 of 2015 to either the petitioner or the second respondent.

(iii)If the petitioner succeeds in W.P.No.3248 of 2015 pending before this Court, the petitioner is permitted to withdraw the amount lying in the credit of C.P.No.115 of 2015. If the petitioner fails in W.P.No.3248 of 2015, the said amount shall be disbursed in favour of the second respondent.



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11.The writ petition is disposed of on the above terms. No costs.

Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Presiding Officer,
Principal Labour Court,
Vellore.



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M.DHANDAPANI,J.
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