



W.P.No.14791 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14791 of 2018

And

W.M.P.No.17485 of 2018

The Managing Director
Craigmore Plantations (P) Ltd.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.P.Ponraj

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.275 of 2002 and quash its preliminary award dated 16.06.2006 and final award dated 21.08.2017.

For Petitioner : Mr.G.Anand
for M/s.T.S.Gopalan and Co.

For Respondents : R1 – Court
Mr.Mukund for R2
Senior Counsel
for M/s.V.Sivakumar



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in I.D.No.275 of 2002 and quash its preliminary award dated 16.06.2006 and final award dated 21.08.2017.

2.The case of the petitioner is that the petitioner is a Plantation Estate engaged in cultivation of Tea and the employees of the plantations are governed by the Joint Standing Orders applicable to the plantation industry as a whole. The second respondent was employed as a Supervisor in the Glencairnie Division and he was also incharge of reporting actual tea leaves plucked by maintaining pocket check roll inorder to figure out the overtime wages payable to the workmen for leaves actually plucked by them and the duration of work.

3.The further case of the petitioner is that the petitioner came to know that the second respondent was inflating figures thereby enabling the workmen to obtain overtime wages for the work actually not done by them and hence on the basis of the complaint by the Assistant Field Officer, a show cause notice was issued to the second respondent and thereafter domestic enquiry was conducted and



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subsequently, the second respondent was terminated from service on 20.05.2001.

4.The further case of the petitioner is that thereafter, the second respondent raised industrial dispute in I.D.No.275 of 2002 before the first respondent and the first respondent vide order dated 16.06.2006 held that the enquiry conducted by the petitioner is not fair and proper and thereafter passed final award dated 21.08.2017 directing the petitioner to pay a sum of Rs.10 Lakhs as compensation to the second respondent. Challenging the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner submitted that the first respondent framed preliminary issue as to whether the domestic enquiry conducted by the respondent is fair and proper. It is the duty of the petitioner to adduce evidence and substantiate that enquiry was conducted in a fair and proper manner. The learned counsel fairly submitted that the petitioner did not adduce any evidence, however, the final award dated 21.08.2017 directing the petitioner to pay a sum of Rs.10 Lakhs as compensation to the second respondent is onerous and not sustainable one.



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6.The learned Senior Counsel appearing for the second respondent submitted that the second respondent was employed as general worker under the petitioner on 09.09.1977 and was promoted as Supervisor in the year 1981. His last drawn monthly salary was Rs.2,625/- and he had worked under the petitioner for 24 years. On 12.03.2001, the petitioner issued show cause notice to the second respondent and thereafter issued dismissal order dated 20.05.2001 to the second respondent. The learned counsel further submitted that the petitioner did not establish before the first respondent that domestic enquiry was conducted in a fair and proper manner and hence, the first respondent passed preliminary order dated 16.06.2006 holding that the enquiry conducted by the petitioner is not fair and proper.

7.The learned Senior Counsel appearing for the second respondent further submitted that the first respondent after considering the period of service rendered by the second respondent, the period of service lost by the second respondent and the last drawn salary, rightly passed the final award directing the petitioner to pay a sum of Rs.10 Lakhs as compensation to the second respondent.



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8. Heard the arguments advanced on either side and perused the materials available on record.

9. Perusal of records disclose that the second respondent was employed as general worker under the petitioner on 09.09.1977 and was promoted as Supervisor in the year 1981. His last drawn monthly salary was Rs.2,625/- and he had worked under the petitioner for 24 years. On 12.03.2001, the petitioner issued show cause notice to the second respondent and thereafter issued dismissal order dated 20.05.2001 to the second respondent. The second respondent reached the age of superannuation in the year 2015.

10. With regard to the fairness of the enquiry the petitioner did not adduce any evidence before the first respondent to establish that domestic enquiry was conducted in a fair and proper manner and hence, the first respondent passed preliminary order dated 16.06.2006 holding that the enquiry conducted by the petitioner is not fair and proper, which warrants no interference.

11. However, the first respondent while awarding compensation



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has to consider whether the second respondent workman is entitled to backwages. In the present case, the petitioner as well as the second respondent has not adjudicated the issue with regard to backwages. The fact remains that the second respondent received a sum of Rs.2,625/- as last drawn monthly salary and he reached the age of superannuation in the year 2015. He was dismissed from service in the year 2001. Even if we calculate the amount of Rs.2,625/- for a period of 15 years, the amount comes to around Rs.4,72,500/-, however, the first respondent without any basis has awarded a sum of Rs.10 Lakhs as compensation to the second respondent, which is not sustainable. Hence, in order to strike the balance in between the parties, this Court is inclined to fix the compensation amount as Rs.5,50,000/-.

12. Accordingly, the award dated 21.08.2017 made in I.D.No.275 of 2002 passed by the Labour Court, Coimbatore, is modified as follows:

(i) The petitioner Management is directed to pay a sum of Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand Only) as full and final settlement to the second respondent Workman, within a period of four weeks from the date of receipt of a copy of this order.



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13.It is now represented by the learned counsel appearing for the petitioner that as per the order of this Court dated 20.06.2018 made in W.M.P.No.17485 of 2018 in W.P.No.14791 of 2018, the petitioner has already deposited 50% of the award amount.

14.In view of the above, it is made clear that the petitioner Management shall pay the amount of Rs.5,50,000/-, less the amount already deposited, if any, in favour of the second respondent workman by way of demand draft, within a period of four weeks from the date of receipt of a copy of this order. The second respondent workman is permitted to withdraw the amount already deposited by the petitioner Management, if any, along with accrued interest.

15.With the above observations, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

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M.DHANDAPANI,J.
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To

1.The Presiding Officer,
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