



W.P.Nos.24286 of 2018 and 17673 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.24286 of 2018 and 17673 of 2022

And

W.M.P.No.16967 of 2022

The Secretary,
United Trade Union
Cannanore Spinning and Weaving Mills,
Palloor P.O.,
Mahe – 673 333.

... Petitioner in W.P.24286/2018

M/s.Cannanore Spinning and Weaving Mills,
Rep by its General Manager,
P.O Palloor,
Mahe – 673 333.

... Petitioner in W.P.17673/2022

Vs.

1.M/s.Cannanore Spinning and Weaving Mills,
Rep by its General Manager,
P.O Palloor,
Mahe – 673 333.

2.The Industrial Tribunal – cum – Labour Court,
Puducherry
Rep. by the Registrar

... Respondents in W.P.24286/2018

The Secretary,
United Trade Union
Cannanore Spinning and Weaving Mills,
Palloor P.O.,
Mahe – 673 333.

... Respondent in W.P.17673/2022



W.P.Nos.24286 of 2018 and 17673 of 2022

Prayer in W.P.No.24286 of 2018:

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned award dated 05.09.2017 passed in I.D.(L).No.82 of 2012 on the file of the Industrial Tribunal-cum-Labour Court at Puducherry and quash the same in so far as the denial of reinstatement in service with back-wages is concerned and direct the first respondent herein to reinstate the workman, namely, T.K.Surendran (Cone Winding No.124) in service with back wages, continuity of service and all other attendant benefits.

Prayer in W.P.No.17673 of 2022:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Industrial Tribunal-cum-Labour Court at Puducherry, in I.D.(L).No.82 of 2012 and quash its award dated 05.09.2017.

For Petitioners : M/s.T.N.Sugesh
in W.P.No.24286 of 2018

Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.
in W.P.No.17673 of 2022

For Respondents : Mr.Anand Gopalan for R1
for M/s.T.S.Gopalan & Co.
R2 – Labour Court
in W.P.No.24286 of 2018

Mr.T.N.Rangesh
in W.P.No.17673 of 2022



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COMMON ORDER

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W.P.No.24286 of 2018 has been filed by the Workmen Trade Union seeking to quash the award dated 05.09.2017 passed in I.D.(L).No.82 of 2012 by the Industrial Tribunal-cum-Labour Court at Puducherry in so far as the denial of reinstatement in service with backwages is concerned and to direct the Management to reinstate the workman, namely, T.K.Surendran (Cone Winding No.124) in service with backwages, continuity of service and all other attendant benefits.

2.W.P.No.17673 of 2022 has been filed by the Management seeking to quash the award dated 05.09.2017 passed in I.D.(L).No.82 of 2012 by the Industrial Tribunal-cum-Labour Court at Puducherry since the Industrial Tribunal-cum-Labour Court has directed the Management to pay a sum of Rs.5 Lakhs as compensation to the workman, namely, T.K.Surendran and to pay retirement benefits such as gratuity and other benefits to him.

3.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.24286 of 2018 would be hereinafter referred to as 'Workmen Trade Union' and the petitioner in



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W.P.No.17673 of 2022 would be hereinafter referred to as 'Management'.

4.The facts of the case is that on 27.09.2006 at about 1.30 p.m., one of the members of the Workmen Trade Union, namely, T.K.Surendran entered into the room of the General Manager without his permission and threatened him, abused his authority, interfered with his office duties, showered abuses on him, destroyed the food items kept on the dining table for him and thereby committed misconduct of acting in a riotous and disorderly manner. Hence, the Management suspended the said T.K.Surendran from service and on 03.10.2006 served charge sheet on him and since the reply given by the said T.K.Surendran was not satisfactory, the Management conducted enquiry and dismissed him from service on 19.01.2007.

5.Challenging the dismissal of the said T.K.Surendran, the Workmen Trade Union raised Industrial Dispute before the Conciliation Officer and on failure of conciliation proceedings, the dispute was referred to Sub Court at Mahe and was numbered as I.D.No.04 of 2010 and subsequently, when Industrial Tribunal-cum-Labour Court at



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Puducherry was established, the dispute was transferred to the file of the Industrial Tribunal-cum-Labour Court at Puducherry and re-numbered as I.D.(L).No.82 of 2012. After adjudication, the Industrial Tribunal-cum-Labour Court at Puducherry passed award dated 05.09.2017 directing the Management to pay a sum of Rs.5 Lakhs as compensation to the said T.K.Surendran and to pay retirement benefits such as gratuity and other benefits to him. Hence, these writ petitions.

6.The learned counsel appearing for the Workmen Trade Union submitted that the charges levelled against the workman, namely, T.K.Surendran was not established before domestic enquiry as well as before the Industrial Adjudicator. It is the duty of the Management to let in evidence and prove the guilt of T.K.Surendran, but the Management failed to do so. However, the Industrial Adjudicator, without any evidence, instead of directing the Management to reinstate the T.K.Surendran (Cone Winding No.124) in service with backwages, continuity of service and all other attendant benefits, only directed the Management to pay a sum of Rs.5 Lakhs as compensation to him, which is not sustainable one.



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7.The learned counsel appearing for the Management submitted that the charges levelled against the workman, namely, T.K.Surendran was established before domestic enquiry as well as before the Industrial Adjudicator. However, the Industrial Adjudicator without considering the gravity of the allegations levelled against the said T.K.Surendran, directed the Management to pay a sum of Rs.5 Lakhs as compensation to the said T.K.Surendran and to pay retirement benefits such as gratuity and other benefits to him, which is not sustainable one.

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

9.The facts in the present case is not in dispute. Admittedly, one of the members of the Workmen Trade Union, namely, T.K.Surendran was working as cone winding worker under the Management and was also involved in the Trade Union activities. The Management suspended the said T.K.Surendran from service on 27.09.2006 alleging that he mis-behaved with the superior Officer of the Management and initiated disciplinary proceedings against him and dismissed him from



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service on 19.01.2007. The Management examined the Enquiry Officer as PW1 before the Industrial Tribunal and marked the enquiry report as Ex.P1 and enquiry file as Ex.P2. The Industrial Tribunal did not frame any preliminary issue and directly decided the industrial dispute itself and arrived at a conclusion that the allegations levelled against the said T.K.Surendran were proved and considering the past services rendered by him, directed the Management to pay a sum of Rs.5 Lakhs as compensation to the said T.K.Surendran and to pay retirement benefits such as gratuity and other benefits to him.

10.This Court under Article 226 of the Constitution of India cannot re-appreciate the factual findings rendered by the Industrial Tribunal – cum – Labour Court and this Court can interfere only on the ground of perversity. In the present case, the mis-behaviour of the said T.K.Surendran with the Management was proved before the Enquiry Officer as well as before the Industrial Tribunal, however, the Industrial Tribunal considering the past services rendered by the said T.K.Surendran passed the impugned award, which is perfectly in order and hence this Court is not inclined to interfere with the award impugned in these writ petitions.



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M.DHANDAPANI,J.
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11.These writ petitions are dismissed. No costs. Consequently,
the connected miscellaneous petition is closed.

26.09.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Industrial Tribunal – cum – Labour Court,
Puducherry
Rep. by the Registrar

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and 17673 of 2022
And
W.M.P.No.16967 of 2022**

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