



W.P.No.4920 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

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THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.4920 of 2016

Tamil Nadu Khadi and Village Industries Board,
Represented by its Chief Executive Officer,
Kuralagam, Chennai.

...Petitioner

Vs

1. V.Subburaj

2. The Presiding Officer,
Labur Court, Salem.

...Respondents

The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records relating to the award passed in ID.No.26 of 2011, dated 12.02.2015 by the second respondent herein, quash the same.

For Petitioner : M/s.S.K.Bose

For Respondents : Mr.K.V.Shanmuganathan R1

ORDER

The writ petition has been filed seeking to quash the award passed in ID.No.26 of 2011, dated 12.02.2015 by the second respondent herein.

2. The case of the petitioner that the first respondent could not be



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provided with employment and he has not proved himself before the Labour Court, salem that he was directed not to attend office. No body stopped him from attending duty. The first respondent himself stayed away from duty at his convenience and for reasons known to him only. Since he was a temporary employee on consolidated payment basis, board did not issue notice to him. The first respondent has never produced any evidence before the Labour Court to prove that he is the permanent employee. The first respondent was temporarily appointed on consolidated pay at the Agarthi Unit at Denkanikottai. Without considering all these facts, the second respondent has passed an order dated 12.02.2015 in ID No.26 of 2011 by directing the petitioner Board to grant reinstatement with continuity of service within a period of three months from the date of receipt of a copy of this order.

3. The learned counsel for the petitioner submitted that the first respondent has not proved that he worked on permanent basis. The Labour Court failed to see that the dispute raised by the first respondent belatedly that is after five years and it is impossible for a man to meet out



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his needs without a job for more than five years. The first respondent willfully abstained from duty since January 2005 and moved the Court to extract money illegally from the petitioner. Therefore, the award passed by the second respondent is liable to be quashed.

4. Per contra, the learned counsel for the first respondent submitted that he joined the service of the petitioner as sales helper on 02.10.1986. The first respondent has worked without any break or interruption from the date of joining and he was orally denied employment with effect from 01.01.2005. While he was in service, he was worked in various branches of the petitioner. Aggrieved by the illegal termination, the first respondent raised an Industrial Dispute before the Labour Court, Salem for reinstatement with back wages. The first respondent examined himself as witness and marked exhibits W1 to W6. The petitioner herein has marked Ex.M1 to M3 on their behalf. After considering the oral as well as the documentary evidence adduced, the second respondent herein has rightly passed an award holding that the oral order of termination passed by the petitioner is illegal and directed them to grant



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reinstatement to the first respondent, which does not warrants any interference.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on records.

6. The facts of the case are not in dispute. Admittedly, the petitioner Board recruited the first respondent as Sales Attender in the year 1986, such an employment is not disputed by the petitioner Board before the Labour Court. The petitioner Board themselves was admitted that the first respondent was transferred from Thenkanikottai Agarbathi Units to various units which was run by the petitioner Board and lastly the first respondent was transferred to Arur Head Office and he was working there from 1994 to 2005. Thereafter, the first respondent was not allowed to join duty. Thereby, the first respondent had raised an industrial dispute before the Labour Court. Before the Labour, the petitioner Board themselves admitted that the first respondent was



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regular in employment. The Labour Court has also elaborately discussed the matter and rightly passed an order in favour of the first respondent, which cannot be interfere with by this Court.

7. Accordingly, the writ petition is dismissed. No costs.

03.07.2023

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Index: yes / no
Internet : yes / no
Speaking / Non speaking order

To

The Presiding Officer,
Labur Court, Salem.



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M.DHANDAPANI, J.

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