



WEB COPY



W.P.Nos.34840 and 34841 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.34840 and 34841 of 2014
and W.M.P.Nos.18261, 18265, 33947 and 33948 of 2017

W.P.No.34840 of 2014:-

1. M.Nallasamy (Deceased)
2. N.Malliga
3. N.Vadivel
(P2 and P3 substituted as
LRs of deceased sole petitioner
vide order dated 14.07.2023 made
in W.M.P.No.16971 of 2021
in W.P.No.34840 of 2014)

... Petitioners

-Vs-

1. The Presiding Officer
Labour Court, Salem.
2. The Management
Sengunthar Mills (Pvt) Ltd.,
Varappalayam,
Thokkavadi (PO) 637 209.
Thiruchengode Tk,
Namakkal.

... Respondents



W.P.Nos.34840 and 34841 of 2014

Prayer in W.P.No.34840 of 2014:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records connected with the award dated 13.05.2013 passed by the first respondent in I.D.No. 31 of 2005 quash the same and consequentially direct the second respondent to grant the petitioner his entire service benefits including the monetary benefits upto his date of superannuation during 2009 and also his terminal/pensionary benefits with all other attendant benefits taking into account his 22 years of unblemished past continuity of service, exercising the deeming and enabling provision.

W.P.No.34841 of 2014:-

1. J.Vasanthakumar Martin (Deceased)
2. V.Suganthi
3. Emmanuel Martin
4. Evelyn Alice Chellam
(P2 to P4 substituted as
LRs of deceased sole petitioner
vide order dated 14.07.2023 made
in W.M.P.No.16974 of 2021
in W.P.No.34841 of 2014)

... Petitioners

-Vs-

1. The Presiding Officer
Labour Court, Salem.
2. The Management
Sengunthar Mills (Pvt) Ltd.,
Varappalayam,



W.P.Nos.34840 and 34841 of 2014

Thokkavadi (PO) 637 209.

Thiruchengode Tk,

Namakkal.

... Respondents

Prayer in W.P.No.34841 of 2014:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records connected with the award dated 16.05.2013 passed by the first respondent in I.D.No.32 of 2005 quash the same and consequentially direct the second respondent to grant the petitioner his entire service benefits including the monetary benefits upto his date of superannuation on 15.08.2012 and also his terminal/pensionary benefits with all other attendant benefits duly exercising the deeming and enabling provision.

In Both W.Ps

For Petitioners : Ms.S.Girija

For Respondents

R1 : Labour Court

R2 : Mr.Anand Gopalan

for Mr.T.S.Gopalan and Co.

COMMON ORDER

The W.P.No.34840 of 2014 has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records connected with the award dated 13.05.2013 passed by the first respondent in I.D.No.31 of 2005 quash the same and consequentially direct the second respondent to grant the petitioner his entire service benefits including the monetary



W.P.Nos.34840 and 34841 of 2014

benefits upto his date of superannuation during 2009 and also his terminal/pensionary benefits with all other attendant benefits taking into account his 22 years of unblemished past continuity of service, exercising the deeming and enabling provision.

2. The W.P.No.34841 of 2014 has been filed for the issuance of Writ of Certiorarified Mandamus, calling for the records connected with the award dated 16.05.2013 passed by the first respondent in I.D.No.32 of 2005 quash the same and consequentially direct the second respondent to grant the petitioner his entire service benefits including the monetary benefits upto his date of superannuation on 15.08.2012 and also his terminal/pensionary benefits with all other attendant benefits duly exercising the deeming and enabling provision.

3. Heard the learned counsel for the petitioners and the learned counsel for the second respondent and perused the materials available on record.



W.P.Nos.34840 and 34841 of 2014

W.P.No.34840 of 2014:-

WEB COPY

4. The deceased first petitioner had joined as an Assistant Time Keeper on 01.01.1982 in the service of the second respondent. The petitioner was also promoted to the post of Shift Clerk and his last drawn wage was Rs.4,163.70/- per month. However, on 16.03.2004, the deceased petitioner was denied employment and he was not permitted to re-join in the duty. Though the deceased petitioner submitted his representation dated 18.06.2004 for re-employment, on receipt of the same, the second respondent failed to give any employment to him. Therefore, the deceased petitioner raised proceedings before the Labour Officer and the same was failed. Hence, it was referred before the first respondent as Industrial Dispute in I.D.No.31 of 2005. The first respondent concluded that the second respondent failed to follow the provisions under Section 25(F) of the Industrial Disputes Act and as such the termination of the deceased petitioner is unsustainable. However, without ordering reinstatement of the deceased petitioner into service, the first respondent awarded only a sum of Rs.1,25,000/- calculating the remaining period of service from the date of his termination i.e.,16.03.2004.



W.P.Nos.34840 and 34841 of 2014

W.P.No.34841 of 2014:-

WEB COPY

5. The deceased first petitioner had joined as an Assistant Time Keeper on 01.07.1986 in the service of the second respondent. The petitioner was also promoted to the post of Time Keeper and his last drawn wage was Rs.4,395.70/- per month. However, on 14.03.2004, the deceased petitioner was denied employment and he was not permitted to re-join in the duty. Though the deceased petitioner submitted his representation dated 15.06.2004 for re-employment, on receipt of the same, the second respondent failed to give any employment to him. Therefore, the deceased petitioner raised proceedings before the Labour Officer and the same was failed. Hence, it was referred before the first respondent as Industrial Dispute in I.D.No.32 of 2005. The first respondent concluded that the second respondent failed to follow the provisions under Section 25(F) of the Industrial Disputes Act and as such the termination of the deceased petitioner is unsustainable. However, without ordering reinstatement of the deceased petitioner into service, the first respondent awarded only a sum of Rs.75,000/- calculating the remaining period of service from the date of his termination i.e.,14.03.2004.



W.P.Nos.34840 and 34841 of 2014

WEB COPY

6. The learned counsel for the petitioners would submit that the first respondent concluded that the second respondent failed to follow the provisions under Section 25(F) of the Industrial Disputes Act and terminated the service of the deceased petitioners and they are entitled for reinstatement into service. That apart, the labour Court also failed to award the service continuity and backwages among with other attendant consequential monetary benefits. She also pointed out that the second respondent failed to substantiate their contention that the deceased petitioners themselves absented from their service. Though the representations submitted by the deceased petitioners were received by the second respondent, the second respondent neither issued any reply nor given employment to the deceased petitioners. That apart, the deceased first petitioner in W.P.No.34840 of 2014 was awarded with compensation of Rs.1,25,000/- calculating the remaining period of five years of service and fixed compensation of Rs.25,000/- per year. Whereas, the deceased petitioner in W.P.No.34841 of 2014 had eight years remaining period of service. However, the labour Court awarded only a sum of Rs.75,000/- as compensation that too without any



W.P.Nos.34840 and 34841 of 2014

justification. That apart, the second respondent did not choose to challenge the award passed by the first respondent. Further they also deposited the compensation amount as awarded by the first respondent in respective IDs.

7. The learned counsel for the second respondent would submit that even before the Conciliation Officer, they offered re-employment to the deceased petitioners. However, they refused to come for service. The second respondent also filed a detailed counter stating that they offered re-employment to the deceased petitioners. However, the deceased petitioners failed to join and as such they were never terminated by the second respondent and they voluntarily stopped from attending duty. The first respondent considering the date of the deceased petitioners' joining, awarded compensation. Therefore, it does not require any modification or interference and prayed for dismissal of both the writ petitions.

8. Both the deceased petitioners were awarded with compensation by the first respondent by calculating Rs.25,000/- per year for their remaining period of service, till their attainment of superannuation.



W.P.Nos.34840 and 34841 of 2014

However, the deceased petitioner in W.P.No.34841 of 2014 was awarded with compensation of Rs.75,000/- without calculating the remaining period of service. Now, the first petitioner in both the writ petitions died and their respective legal heirs are substituted as petitioners in both the writ petitions.

9. Therefore, the reinstatement into service does not arise in both the writ petitions. However, both the deceased petitioners are entitled for compensation as calculated by the first respondent as Rs.25,000/- per year for their remaining period of service till their attainment of superannuation. Accordingly, the award passed in I.D.No.32 of 2005 is alone modified to the effect that the award of Rs.75,000/- is modified to the tune of Rs.2,00,000/- payable by the second respondent. Insofar as I.D.No.31 of 2005 is concerned, it does not require any modification.

10. Therefore, the second respondent is directed to pay the compensation directly to the legal heirs in both the writ petitions, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that the second respondent is liable to pay gratuity with



W.P.Nos.34840 and 34841 of 2014

eligible interest to the legal heirs of both the deceased petitioners, within a period of four weeks from the date of receipt of a copy of this order.

Whatever the amount deposited by the deceased petitioners to the credit of their respective IDs, the second respondent is permitted to withdraw the same after settling the amount to the petitioners. It is also made clear that the first respondent is directed to permit the second respondent to withdraw the amount which was already deposited by the deceased petitioners, in lieu of the interim order passed by this Court, without ordering notice to the legal heirs of the deceased petitioners.

11. With the above directions, these Writ Petitions are disposed of. Consequently, connected Miscellaneous petitions are closed. No costs.

04.08.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
mn



W.P.Nos.34840 and 34841 of 2014

WEB COPY

To

1. The Presiding Officer
Labour Court, Salem.
2. The Management
Sengunthar Mills (Pvt) Ltd.,
Varappalayam,
Thokkavadi (PO) 637 209.
Thiruchengode Tk,
Namakkal.



WEB COPY



W.P.Nos.34840 and 34841 of 2014

G.K.ILANTHIRAIYAN, J.

mn

W.P.Nos.34840 and 34841 of 2014

04.08.2023