



WEB COPY



WP.No.28603 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 28603 of 2014

and

M.P.No. 1 of 2014

The Management,
The Salem Sowdeswari College,
Represented by J.K.A.Kannannamal
W/o.J.K.K.Angappan
Correspondent, Managing Trustee and Secretary,
Kondalampatti, Salem – 63. Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Salem.

2. E.Muthusamy Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records pertaining to the order passed in I.D.No.71 of 2007 dated 23.10.2013 on the file of Labour Court, Salem and quash the same.

For Petitioner	:	Mr.T.Mohan Raju for Mr.R.Nalliyappan
For R1	:	Court
For R2	:	Mr.R.M.D.Nasrullah for Mr.K.V.Shanmuganathan



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ORDER

This Writ Petition has been filed challenging the Award dated 23.10.2013 in I.D.No.71 of 2007 passed by the first respondent, thereby directed the petitioner to reinstate the second respondent with 25% back wages from 04.04.2001.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

3. The petitioner College is governed by Sri Sowdeswari Mahajana Charitable Trust, Salem. It is an aided College under the control of the Private Colleges Regulations Act. The second respondent was appointed as a Scavenger on 14.12.1982 and his last drawn salary was Rs.3,607/- per month. Even from the date of appointment, he used to come to the College with drunken mood and caused several problems in the College premises. Once, he came in a drunken mood created a problem with a co-employee. Therefore, a complaint was lodged on 03.11.1998 before the Kondalampatti Police Station, Salem and FIR has been registered as against the second respondent. Pursuant to the said



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FIR, disciplinary proceedings was initiated as against the second respondent. He himself appeared before the Enquiry Officer and admitted the charges framed against him. Thereafter, on the strength of the enquiry report, the petitioner was served with a show cause notice on 18.01.2006. Subsequently, he was removed from service and the petitioner, by a letter dated 20.12.2006, sought for approval for punishment of removal from service before the Regional Joint Director of Collegiate Education, Coimbatore. Pending the said request, the second respondent requested for voluntary retirement. The said request was not considered and the same was rejected by the Education Department. Thereafter, the second respondent sought permission to join the duty.

4. Thereafter, the second respondent raised Industrial Dispute in I.D.No.71 of 2007 before the first respondent under Section 2(A)(2) of ID Act, challenging the order of dismissal. The first respondent, without considering the above facts and circumstances, directed the petitioner to reinstate the second respondent with continuity of service and treated the period of absence as leave without salary from 19.12.1999 to 04.04.2001 and held that the second respondent is also entitled for 25% back wages from 04.04.2001. Hence, the present writ petition.

5. A perusal of Exs.R1 & R2 revealed that the petitioner was



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served with charge memo and enquiry was conducted. Out of four charges, three charges were proved and as such, he was dismissed from service and the order of dismissal is pending for approval before the Regional Joint Director of College Education. However, the second respondent raised Industrial Dispute contending that he was not permitted to work in the petitioner's College from 01.03.2000. The second respondent was issued with charge memo on 06.07.2005. After issuance of show cause notice and on receipt of the explanation submitted by the second respondent, an enquiry was conducted and charge Nos.1 to 3 were proved. That apart, there were so many complaints lodged against the second respondent and FIR has been registered against the second respondent, which is marked as Ex.R10.

6. That apart, the petitioner always came to the College in a drunken mood and developed problem with co-employee and also stolen the money from the students. Therefore, the second respondent had committed serious offence and the charges 1 to 3 were held proved against him. The second respondent did not even receive the order of dismissal before that the second respondent raised Industrial Dispute. Therefore, the first respondent ought not to have allowed the Industrial



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Dispute raised by the second respondent.

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7. In view of the above, the order dated 23.10.2013 passed in I.D.No.71 of 2007 by the Presiding Officer, Labour Court, Salem, is hereby quashed and accordingly, this Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Index:Yes/No
Internet:Yes/No
Lpp

To
The Presiding Officer,
Labour Court,
Salem.

G.K.ILANTHIRAIYAN,J.



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