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W.P.No.19182 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2023

CORAM

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

W.P.No.19182 of 2018

The Management,
M/s. Soundararaja Mills Ltd.,
Nedungadu (Post), Karaikal – 609 603.
Rep. by its Human Resource Manager

...Petitioner

Vs.

Th Secretary, CITU,
No.14, Thennur, Surakudy Post,
Thirunallar.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the Industrial Tribunal Cum Labour Court, Puducherry in I.D.(L).No.38 of 2012, quash its preliminary award in I.D.No.5 of 2006 dated 12.10.2011 (Labour Court, Karaikal Transferred to Industrial Tribunal cum Labour Court, Puducherry, renumbered) and final award in I.D.(L).No.38 of 2012 dated 08.02.2018.

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

For Respondent : Mr.Balan Haridas



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ORDER

WEB COPY The petitioner has come up with this Writ petition seeking quashment of the preliminary award dated 12.10.2011 made in I.D.No.5 of 2006 and the final award dated 08.02.2018 passed by the Industrial Tribunal Cum Labour Court, Puducherry in I.D.(L).No.38 of 2012 (Preliminary award passed by the Labour Court, Karaikal and subsequently Transferred to Industrial Tribunal cum Labour Court, Puducherry and renumbered as I.D.(L).No.38 of 2012).

2. The case of the petitioner is that, the petitioner mill is the oldest spinning mill in Karaikal with 33,000 spindles, operating since 1966 and there are around 400 persons employed in the said mill and the workmen of the petitioner mill are members of various trade unions and the petitioner has also signed with these unions. While so, for certain misconduct committed by one Sagayaraj, one of the member of the respondent union, who was working as Spinning Doffer in the petitioner mill from 1987, a show cause notice dated 14.11.2003 came to be issued to the said Sagayaraj. Being not satisfied with the reply dated 29.11.2003 submitted by the said Sagayaraj, a domestic enquiry was ordered and upon conclusion of which,



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the said Sagayaraj was terminated from service on 02.04.2005. Challenging the said termination, the respondent union on behalf of the said Sagayaraj, raised a dispute before the Labour Officer, Karaikal in I.D.No.5 of 2006, in which a preliminary issue was taken as to whether the domestic enquiry was conducted in a fair and proper manner and the Labour Officer, Karaikal, vide preliminary award dated 12.10.2011 held that, the domestic enquiry conducted by the management is not fair and the same is in violation of principle of natural justice. Thereafter the said dispute was subsequently transferred to the file of the Industrial Tribunal cum Labour Court, Puducherry and renumbered as I.D.(L).No.38 of 2012. After contest, the Labour Court, Puducherry, vide final award dated 08.02.2018 directed the petitioner mill to reinstate the said Sagayaraj back into service with 30% back wages. Challenging both the preliminary and final awards, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that during the pendency of the Writ petition the entire mill became stand still and all the employees are just coming and going and there is no work in the mill and they are ready to provide necessary assistance possible by them to the



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workman, if he is ready to join the duty and accordingly, he prayed for appropriate orders.

4. Learned counsel appearing for the respondent submitted that, if the petitioner mill is ready to reinstate the said Sagayaraj, this Court may issue necessary direction to the petitioner for the same.

5. Heard learned counsel on either side and perused the materials available on record.

6. Though very many grounds have been raised, and inspite of the fact that the petitioner mill on its own has come forward and submitted that they are ready to reinstate the said Sagayaraj, however, considering the fact that the mill is not functioning properly and they cannot bear to pay wages to the workman, this Court, in order strike balance in between the parties, directs the petitioner to pay a sum of Rs.3,00,000/- as full quit to the said Sagayaraj within a period of two weeks from the date of receipt of a copy of this order in lieu of reinstatement.



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WEB COPY 7. Accordingly, this Writ Petition stands disposed of with the aforesaid direction. No costs. Consequently, connected Miscellaneous petition is closed.

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NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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