



W.P.No.9490 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2023

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.9490 of 2016

and

W.M.P.Nos.8510 of 2016 and 27701 of 2019

Sri Akilaa Spinning Mills,
Private Limited,
Unit – II, Kapparathampatti,
Jalakantapuram – 636 501,
Salem District.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.

2. M.Sivalingam

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorari calling for the records in I.D.No.185 of 2010 on the file of Labour Court Salem, the first respondent herein, quash the award dated 7-1-2015 passed therein.

For Petitioner : Mr.M.R.Raghavan

For R2 : Mr.K.Sudalaikannu

ORDER

This petition is filed seeking for issuance of a writ of certiorari to quash the Award dated 07.01.2015 passed in I.D.No.185 of 2010 on the



file of Labour Court, Salem / 1st respondent.

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2. It is the case of the petitioner that the 2nd respondent was engaged as supervisor in the petitioner mill. According to the petitioner, the 2nd respondent did not report to duty from 16.04.2009, who subsequently raised an industrial dispute on the ground that he was illegally terminated from service. While so, the 2nd respondent raised an industrial dispute seeking reinstatement of service along with back wages before the 1st respondent in I.D.No.185 of 2010 and the same was allowed vide Award dated 07.01.2015 with a direction to reinstate the 2nd respondent in service along with 60% back wages. Challenging the same, the petitioner has come up with this writ petition.

3. The learned counsel for the petitioner submitted that though the 2nd respondent did not report to duty regularly, the first respondent vide Award dated 07.01.2015, observed as if the petitioner terminated the 2nd respondent from service. Though all the facts regarding the unauthorized absence of the 2nd respondent was clearly established before the 1st respondent, the Labour Court directed to reinstate the 2nd respondent in service along with 60% back



wages, which is wholly unsustainable.

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4. The learned counsel appearing for the 2nd respondent submits that the 2nd respondent was examined as W.W.1 and marked exhibits W.1 to W.5, whereas, the petitioner management was examined as M.W.1 and marked only one exhibit M.1 on their behalf. Upon appreciating the oral and documentary evidence, the 1st respondent has passed the impugned Award dated 07.01.2015, which cannot be interfered with.

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

6. Admittedly, the 2nd respondent was appointed as Supervisor in the petitioner company in the year 1984. Since the 2nd respondent was orally terminated in the year 2009 by the petitioner management, he raised an Industrial Dispute before the 1st respondent, which is under challenge in the present writ petition. Though the 1st respondent has awarded 60% back wages, this Court upon considering the facts and circumstances of the case is inclined to modify the said Award as hereunder:



(i) The petitioner is directed to reinstate R-2 if not reinstated already and pay 50% back wages to the 2nd respondent at the rate of Rs.4,500 per month from April 2009 till December 2019 within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs.
Consequently, connected miscellaneous petitions are closed.

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rap

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation Case : Yes/No

To

The Presiding Officer,
Labour Court,
Salem.



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