



W.P.Nos.23821 of 2023 & 8350 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

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

W.P.Nos.23821 of 2023 & 8350 of 2018

and

WMP.Nos.23340 of 2023 & 10331 of 2018

W.P.No.23821 of 2023:

The Management,
K.G.Entertainment Company Private Limited,
3, Banglow Road, Race Course Road,
Coimbatore – 641 018.

...Petitioner

Vs.

S.Narayanan
...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the order dated 27.04.2023 passed by the Labour Court in C.P.No.5 of 2018 and to quash the same in so far as grant of back wages to the respondent.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mr.K.V.Shanmuganathan



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W.P.No.8350 of 2018:

The Management,
K.G.Entertainment Company Private Limited,
Coimbatore – 641 018.

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Coimbatore.

2. S.Narayanan,

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the Award dated 13.03.2017 passed by the 1st respondent/Labour court in I.D.No.492 of 2009 and to quash the same in so far as grant of back wages to the 2nd Respondent.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.K.V.Shanmuganathan, for R2

COMMON ORDER

Since the issue involved in both the Writ petitions are interconnected, they are disposed of by way of this common order.

2. For brevity the petitioner in both the Writ petitions is hereinafter referred as management and the sole respondent in W.P.No.23821 of 2023



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and the 2nd respondent in W.P.No.8350 of 2018 is referred to as workman.

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3. The case of the management is that, it is a company incorporated under the provisions of the Companies Act and is engaged in the business of Entertainment and the workman herein was working as A/C operation in the management. While so, the workman herein abused one of the co-worker and when the same was questioned by the management, the workman tried to assault the said co-worker and the workman did not report for duty from 13.02.2009 till 08.03.2009, and for the above said misconduct committed by the workman, the management placed the workman under suspension. While such being the case, the workman raised an industrial dispute in I.D.No.492 of 2009, as if he was denied employment by the management and was orally terminated from service with effect from 12.02.2009 and in the said ID, the Labour Court passed an award dated 13.03.2017, directing the management to reinstate the workman with full back wages and along with continuity of service and other attendant benefits, pursuant to which, the management reinstated the workman and filed W.P.No.8350 of 2018, challenging the said award dated 13.03.2017, in so far as granting full back wages to the workman. During the pendency of the above said Writ petition, the workman filed a computation petition under Section 33C(2) of the ID



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Act, in C.P.No.5 of 2018, claiming a sum of Rs.5,11,861/- towards back wages, leave salary & bonus along with interest and the same was allowed by the Labour Court, vide order dated 27.04.2023, and challenging the said subsequent order passed in the computation petition filed by the workman, the management has come up with W.P.No.23821 of 2023.

4. When the matters were taken up for hearing, the learned counsel appearing for the management as well as the workman submitted that, though the management has come up with these Writ petitions questioning the full back wages awarded by the Labour Court, however, during the pendency of these Writ petitions, the matter got amicably settled in between the parties and the workman namely, S.Narayanan agreed to receive 50% back wages from the date of dismissal till the date of superannuation.

5. In view of the above settlement arrived at in between the parties, this Court is inclined to modify the impugned award dated 13.03.2017 made in I.D.No.492 of 2009 with the following directions:-

(i) The petitioner management is directed to pay the workman 50%



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back wages, as agreed between the parties, from the date of dismissal till the date of superannuation, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the workman would be deemed to have continued in service from the date of dismissal till the date of superannuation, which service shall be counted for the purpose of calculation of terminal benefits.

(ii) In view of the above modification made to the award dated 13.03.2017 passed in I.D.No.492 of 2009, the order dated 27.04.2023 passed in C.P.No.5 of 2018 does not survive and, accordingly, the same is set aside.

6. With the above observations and directions, these Writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous petitions are closed.

17.08.2023

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

To

The Presiding Officer,
Labour Court,

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M.DHANDAPANI., J.

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