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W.P.No.10482 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.10482 & 10746 of 2017
and WMP.No.11685 of 2017

W.P.No.10482 of 2017:

S.Sharmila

... Petitioner

Vs.

1. The Presiding Officer,
Central Government Industrial Tribunal Cum Labour Court,
First Floor, B Wing,
26, Haddows Road,
Shastri Bhavan, Chennai.

2. The Area Manager,
Food Corporation of India,
District Office, PO Box No.2911,
Tatabad Post,
Coimbatore- 641 012.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus after calling for the concerned records from the first respondent, quash the award of the first respondent Tribunal in ID.No.116 of 2015 dated 26.09.2016 insofar as denying the relief of reinstatement, full back wages, continuity of service and all other attendant benefits and consequently direct the second respondent to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.



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2. Both the petitions have been filed seeking to quash the award of the first respondent Tribunal in ID.No.116 of 2015 dated 26.09.2016.

3. For the sake of convenience, the petitioner in W.P.No.10482 of 2017 is referred to as "employee" and the petitioner in W.P.No.10746 of 2017 is referred to as "Corporation".

4. It is the case of the employee that she joined with the Corporation in the year 2012 and she had been working continuously and the Corporation did not regularise the service of the petitioner. The Corporation has terminated the service of the employee and therefore, she raised an Industrial dispute before the Labour Court questioning the termination. The Labour, vide order dated 26.09.2016, passed an award and directed the second respondent to pay a compensation of Rs.1,50,000/- instead of the relief of reinstatement with full back wages, continuity of service. Hence, the employee has filed a writ petition in W.P.no.10482 of 2017.

5. It is the case of the Corporation that the employee joined the Corporation as casual labour. Due to heavy operation, casual workers have



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been engaged by the Corporation as and when required. The employee has not been appointed neither for any permanent post nor terminated from the permanent post in the Corporation. However, she made a representation to regularise the service, for which, she approached the Labour Court. The Labour, vide order dated 26.09.2016, passed an award and directed the Corporation to pay a compensation of Rs.1,50,000/- to the employee. Aggrieved over the same, a writ petition in W.P.no.10746 of 2017 has been filed by the Corporation.

6. The learned counsel for the employee submitted that admittedly the employee joined with Corporation in the year 2012 and the employee had worked for more than 240 days within a period of 12 calendar months and that Section 25 F of the ID Act was not complied before terminating the services of the employee. The Labour Court ought to have granted the relief of reinstatement, continuity of service, back wages and other benefits. Without reinstatement, the Labour Court mechanically passed an award to pay compensation to the employee, which is not sustainable one. Hence, the learned counsel prays that this Court may set aside the impugned award and allow this petition.



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7. The learned counsel for the Corporation submitted that the Labour Court has failed to note that the engagement of the employee is purely of casual in nature and there is no appointment order issued to her at the time of engagement and in view of that there is no question of retrenchment of the employee in violation of Section 25(f) of the I.D.Act. Further, the Labour Court awarded a sum of Rs.1,50,000/- as compensation to the employee, which is huge and unwarranted in the facts and circumstances of the present case. Hence, the learned counsel prays to set aside the impugned order.

8. Heard the learned counsel for the employee and the learned Counsel for the Corporation and perused the materials available on record.

9. The facts of the case are not in dispute. Admittedly, the employee entered into service in the year 2012 as casual labour on daily wages. But the employee has worked with the establishment as and required. The Labour Court has rightly assessed that there was no appointment based on the recruitment rules. But she was engaged on account of shortage existing in the department. Therefore, there is no question about the reinstatement of service



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and the Corporation has not paid one month salary to the employee. Therefore, the Labour Court has rightly fixed a compensation of Rs.1,50,000/- to the employee, which cannot be interfered with.

10. Considering the fact that the Labour Court have vested with the power under Section 11(A) of the ID Act to pass appropriate orders. In view of the above discussion, this Court sets aside the interest portion alone awarded by the Labour Court and directs the Corporation to pay a sum of Rs.1,50,000/- (Rupees One Lakh Fifty thousand only) as compensation to the employee within a period of four weeks from the date of receipt of a copy of this order.

11. With the above direction, both the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.07.2023

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Index : Yes / No

Speaking order / Non speaking order

Netrual Citation Case : Yes / No



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To
The Presiding Officer,
Central Government Industrial Tribunal Cum Labour Court,
First Floor, B Wing,
26, Haddows Road,
Shastri Bhavan, Chennai.



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M.DHANDAPANI, J.

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and WP.No.10746 of 2017

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