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WP.No.23110 of 2017

In the High Court of Judicature at Madras

Dated : 10.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.23110 of 2017
& WMP.No.24221 of 2017

The President, Nadupatti
Panchayat, Vennandur
Union, Rasipuram Taluk,
Namakkal District-637505.

...Petitioner

Vs

1.The Presiding Officer,
Labour Court, Salem.

2.A.Tamilselvi

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the Labour Court, Salem - the first respondent in I.D.No.142 of 2013 dated 29.7.2015 and quash the same in so far as grant of back wages and consequential service benefits to the second respondent/employee is concerned.



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For Petitioner : Mr.Murali
For Respondent-2: Mr.K.V.Shanmuganathan
ORDER

This is a petition filed by the petitioner seeking to quash the award dated 29.7.2015 in I.D.No.142 of 2013 on the file of the first respondent in so far as the grant of back wages and consequential service benefits to the second respondent is concerned.

2. The facts leading to filing of this case are as follows :

(i) The second respondent joined in the petitioner panchayat as Part Time Assistant on 01.8.1998 on consolidated wages. Pursuant to G.O.Ms.No.175 dated 05.12.2006, her services were regularized and she was posted as Panchayat Assistant Grade II. She was in the habit of sending complaints against the then Panchayat President and an enquiry was ordered to be conducted by the concerned Revenue Divisional Officer. In turn, the then President of the petitioner panchayat lodged a complaint against the second respondent on 01.6.2009, pursuant to which, a show cause notice dated 06.8.2009 was issued by the Revenue Divisional Officer concerned to the second respondent. To the said show cause notice, the second



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respondent gave her explanation on the same day i.e. 06.8.2009. Further, by resolution of the petitioner panchayat dated 07.9.2009, the second respondent was terminated from the services.

(ii) Challenging the said resolution dated 07.9.2009, the second respondent filed W.P.No.19681 of 2009 before this Court and it was allowed by order dated 11.1.2010 granting liberty to the petitioner to proceed further after affording an opportunity to the second respondent and following the procedure established by law by conducting an enquiry. It was made clear in the said order dated 11.1.2010 that as the new panchayat assistant had taken charge on 23.9.2009, the request of the counsel for the second respondent that she should be reinstated could not be acceded to, that the appointment made in the post of panchayat assistant in the vacancy caused on account of the termination of the second respondent should be subject to final outcome of the disciplinary proceedings to be initiated against the second respondent and that the petitioner panchayat should commence and complete the disciplinary action against the second respondent within a period of eight weeks.

(iii) Thereafter, the second respondent was terminated from services



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by the two resolutions of the petitioner panchayat respectively dated 29.3.2010 and 28.2.2011. The contempt petition in Cont.P.No. 13 of 2011 filed by the second respondent for disobedience of the orders of this Court dated 11.1.2010 came to be closed by order dated 01.2.2013 holding that as long as the orders passed in the writ petition had not been varied, modified and set aside, the petitioner was bound to comply with the same and that it was open to the second respondent to work out her rights in a manner known to law.

(iv) Thereafter, the second respondent filed the industrial dispute before the first respondent seeking to set aside the order of termination and to direct the petitioner to reinstate her into the services with back wages, continuity of service and all other attendant benefits. In that, the petitioner filed a counter. After contest, the first respondent allowed the industrial dispute by the impugned award setting aside the resolutions dated 07.9.2009, 29.3.2010 and 28.2.2011 and directing the petitioner to reinstate the second respondent into the services with back wages, continuity of service and all other attendant benefits. Challenging only the grant of back wages and consequential service benefits to the second respondent, the



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petitioner is before this Court.

3. The learned counsel for the petitioner submits that though the petitioner management examined one Venugopal on behalf of the petitioner management and marked exhibits M.1 to M.23 before the Labour Court, the Labour Court ordered to reinstate the second respondent in service on the sole ground that the petitioner management has not conducted fair and proper enquiry, which is *per se* unsustainable. Hence, he prayed to allow this writ petition.

4. The learned counsel appearing for the second respondent submits that pursuant to the resolution dated 07.09.2009 passed by the Panchayat, the second respondent was terminated from the services of the petitioner management. He further submits that upon appreciating the oral and documentary evidences, the Labour Court has rightly appreciated the fact that the petitioner has not conducted fair and proper enquiry and the same cannot be interfered with. Hence, he prayed to dismiss this writ petition.



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5. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent.

6. Admittedly the second respondent filed W.P.No.19681 of 2009 before this Court challenging the resolution dated 07.9.2009 passed by the panchayat. However the said writ petition was allowed by order dated 11.1.2010 granting liberty to the petitioner to proceed further after affording an opportunity to the second respondent and following the procedure established by law by conducting an enquiry, even thereafter, the petitioner has not conducted any enquiry and mechanically dismissed the second respondent, which is *per se* unsustainable. The said facts was elaborately considered by the Labour Court and passed the award in favour of the second respondent. It is also seen that the dismissal order was passed by the petitioner management without framing charges against the second respondent, which is against the principles of natural justice and the said facts has been rightly appreciated by the Labour Court, which cannot be interfered with.



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7. With the above observation this writ petition is dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

To
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Labour Court, Salem.



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