



WEB COPY



W.P. No.17922 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.17922 of 2017

and

W.M.P. No.19450 of 2017

The Managing Director
Anglo French Textiles
A Unit of Pondicherry Textile Corporation
Puducherry.

... Petitioner

-VS-

1. P.Rangasamy
2. P.Zody
3. The Presiding Officer
Industrial Tribunal-cum-Labour Court
at Puducherry.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the third respondent in Award dated 24.03.2017 in I.D.(T) No.22/2012 on his file to quash the same.

For Petitioners : No appearance

For Respondents : Mr.Ramesh Venkatachalapathy
For Mr.M.Kavikannan



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ORDER

The petition has been filed seeking to quash the order passed by the third respondent in Award dated 24.03.2017 in I.D.(T) No.22/2012 on the file of the third respondent.

2. It is the case of the petitioner that the respondents 1 and 2 were employed in the petitioners company as shift in-charge and they were working several years in the petitioners company. However, their services have not regularized and promotion was not given. Thereby, the respondents have approached the Labour Court, the Labour Court allowed the petition in part and directed the management to pay the respondents with higher pay for the period which the respondents discharged the duties of shift in-charge. The petitioner, vide order dated 29.05.2017, offered to pay the respondents 1 and 2 applicable payment and the same was refused by the respondents. Hence, the petitioner has filed the present writ petition challenging the order dated 24.03.2017.

3. The learned counsel for the respondents 1 and 2 submitted that this Court may issue a direction to the petitioner to implement the award passed by the Labour Court within the reasonable time as fixed by this Court.



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4. Heard the learned Government Advocate and perused the materials available on record. There is no representation on behalf of the petitioner and however, the writ petition has filed in the year 2017 and considering the pendency of the writ petition, this Court is inclined to dispose of the same on merits.

5. The facts of the case are not in dispute. Admittedly, the respondents 1 and 2 are the employees of the petitioner Management. It is the grievance of the respondents that their service were not regularized and promotion was not given to them, for which, they approached the Labour Court. The Labour Court, after adjudication, rejected the claim made by the respondents and however, directed the petitioner Management to pay the higher pay.

6. Now the issue arises in the present case is whether the respondents 1 & 2 are entitled for the prayer sought for under Section 2A(2) of the ID Act.



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WEB COPY 7. As per above said section, the respondents are not entitled to pray such prayer before the Labour Court. Based on the standing orders of the petitioner Management, the regularization and promotion have to be fixed. Further, the Labour Court has rightly rejected the claim made by the respondents under Section 2A(2) of the ID Act and also the Labour Court directed the petitioner for the higher pay to the respondents, which is not sustainable one and the same is liable to be set aside. The respondents have to file a fresh claim petition under Section 33C(2) of the ID Act to claim their compensation.

8. In such view of the matter, this Court sets aside the order passed by the third respondent dated 24.03.2017 and accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

9. However, liberty is granted to the respondents 1 & 2 to make a fresh claim petition before the Labour Court under Section 33(c)(2) of the ID Act. If the respondents make the fresh petition, the Labour Court shall consider the



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same and pass appropriate orders on merits and in accordance with law, after

providing opportunity to the petitioner as well as the respondents.

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Index: Yes/No

NCS : Yes/No

To

1. The Presiding Officer
Industrial Tribunal-cum-Labour Court
at Puducherry.



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M.DHANDAPANI, J.

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