



W.P. Nos.17964 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.17964 of 2017

and W.M.P. No.33680 and 33681 of 2017

Indian Overseas Bank,

Represented by its Managing Director,

Central Office,

Annasalai, Chennai-2.

... Petitioner

-VS-

1. The Presiding Officer

Central Government Industrial Tribunal

Cum Labour Court, Chennai.

2. P.Thangaraj

... 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 first respondent in connection with the award pronounced in ID.No.30 of 2015 dated 18.10.2016 and quash the same.

For Petitioners : Mr.K.K.Sivasshanmugam

For Respondents : R1-Court (In all Wps)

Mr.K.M,Ramesh

for M/s.S.Apunu (R2)

ORDER

Challenging the impugned order in ID.No.30 of 2015 dated 18.10.2016 on the file of the first respondent, the Petitioner Management has filed the present writ petition.



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2. It is the case of the petitioner that the second respondent was temporarily engaged as Messenger on daily wages basis in the petitioner's bank's Karumandapam Branch, Trichy. But the second respondent made a representation to the petitioner Bank to absorb him as permanent post of sweeper/messenger. The petitioner did not consider the application for absorption. Therefore, the second respondent raised an industrial dispute for his non-absorption under Section 2(A) of the ID Act before the Labour Court. The first respondent Labour Court, vide impugned order dated 18.10.2016, directing the petitioner to reinstate the second respondent in his previous position and pay him wages equal to the minimum wages or pay him compensation of Rs.3 Lakhs. Challenging the said order, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that the Labour Court have power to order for reinstatement. However, the Labour Court have no power for payment of compensation. The second respondent's engagement in the petitioners bank is casual in nature and on daily wages basis and he was not appointed by due recruitment process of the board and he has no right to seek permanent absorption. Without jurisdiction, the Labour Court has mechanically passed an award for payment of compensation, which is liable to be set aside.



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4. The learned counsel for the second respondent submitted that the second respondent/workman was entered into service in the year 1994 as casual labour with the petitioner and employed there till the year 2014. In the year 2014, the petitioner Bank orally terminated the second respondent. The said fact was properly adjudicated before the Labour Court and directed the petitioner for reinstatement or payment of compensation, which cannot be interfered with.

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

6. The facts of the case are not in dispute. Admittedly, the first respondent has entered into service with the petitioner Bank in the year 1993 till 2014 as temporary messenger. Before the Labour Court, the second respondent examined two witnesses and marked 25 documents including the salary vouchers. The petitioner has marked 6 documents on their side. The second respondent has proved before the Labour Court that he has worked from 1993 upto 2014 and the petitioner has failed to prove his case. That being the factual position, the second respondent is entitled for reinstatement or compensation and the Labour Court have jurisdiction to exercise its power under 11(A) of I.D.



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Act, which does not warrant any interference by this Court. When the matter is taken up for hearing, the learned counsel for the petitioner submitted that the petitioner Bank has already deposited a sum of Rs.1,50,000/- before the Labour Court.

7. Considering the facts and circumstances of the case, this Court directs the petitioner to deposit the remaining sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) with 6% interest to the workman/second respondent before the Labour Court within a period of three weeks from the date of receipt of a copy of this order. Therefore, the second respondent is directed to withdraw the compensation amount along with interest by filing an appropriate application.

8. With the above directions, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

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Index: Yes/No

NCS : Yes/No

To



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M.DHANDAPANI, J.

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