



WEB COPY



W.P.No.32606 of 2018 & W.M.P. No.37803 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.32606 of 2018 &
W.M.P. No.37803 of 2018

Philip David

... Petitioner

Vs.

1. The Principal

Mountain Home School and Junior College
Balclovo
Coonoor 643 102.

2. Home Missionary Society of India

Represented by its Secretary/President
No.1/21, Poniammal Street
Egmore, Chennai 600 008

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus or any other appropriate Writ, or order, or direction, in the nature of a writ, to call for the records pertaining to the impugned order passed by the Additional Labour Court, Coimbatore in I.D. No.150 of 2009 dated 12.12.2017, quash the same and consequently direct the respondents to reinstate the petitioner with continuity of service and other related back wages.

For Petitioner	:	Mr.M. Shreedhar
For R1	:	Mr.S.Mukunth, Senior Counsel for M/s. Sarvabhauman Associates
For R2	:	Mr.Adrian D. Rozario



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ORDER

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Challenge in this Writ Petition is made to the orders dated 12.12.2017, passed in I.D. Nos.150 of 2009 by the Additional Labour Court, Coimbatore.

2. The petitioner was working as a Maintenance Supervisor in the 1st respondent School from 01.06.2003 and his services were confirmed on 01.06.2004. He was drawing a salary of Rs.3,877/- till 19.07.2008. According to the Writ Petitioner he was terminated from service on 19.07.2008 without conducting any enquiry and without following the provisions contemplated under Section 25(F) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"). He therefore approached the Industrial Tribunal by way of filing a petition in I.P. No.150/2009 under Section 2-A (2) of the Act to set aside the order of termination dated 19.07.2008.

3. The learned Presiding Officer, Additional Labour Court, Coimbatore, after analysing the evidence on record, had held that the petitioner is not a workman within the meaning of Section 2(s) of the Act and therefore is not entitled to claim any relief before the Labour Court.



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Challenging the said orders, the present Writ Petition is filed.

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4. A perusal of the records shows that the petitioner was employed in the 1st respondent School as a Maintenance Supervisor and he was drawing a salary of Rs.3,877/-. The Constitutional Bench of the Hon'ble Supreme Court in the decision in ***Bangalore Water Supply and Sewerage Board Vs. A. Rajappa and others*** reported in 1978 2 SCC 213 has held that the Educational Institution is an Industry in terms of Section 2(j) of the Industrial Disputes Act, though not all of its employees are "workman". In the instant case, the petitioner was employed in a supervisory cadre and therefore, is not a workman as per the provisions of Section 2(s) of the Act. The findings of the Labour Court is based on records and evidence and I do not see any reason to interfere with the same. Accordingly, the Writ Petition stands dismissed. No costs. Consequently connected Writ Miscellaneous Petition is closed.

03.11.2023

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Index : yes/no
Speaking /Non speaking Order

To



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R.HEMALATHA, J.

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(1/2)