



W.P.(MD)No.6889 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6889 of 2018

and

W.M.P(MD)No.6617 of 2018

The Management ,
Nachammai Cotton Mill,
Chettinad,
Karaikudi Taluk,
Sivagangai District.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.S.Ulagappan

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records relating to the award of the Labour Court, Madurai, passed in I.D.No.108/2012 dated 14.11.2017 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : R1 - Court

Mr.S.Bharathy Kannan - for R2

ORDER

This writ petition has been filed to quash the impugned award of the Labour Court, Madurai, passed in I.D.No.108/2012, dated 14.11.2017

2. The case of the petitioner-Management is that the petitioner mill is a Textile Mill and manufactured cotton yarn from raw cotton, for which, it has to undergo various process and engaged various categories of



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employees and given employment in and around village people are utmost benefited and uplift their economic status. While so, on 25.01.2008 the second respondent entered into the General Manager room and enquired the Voluntary Retirement Scheme and after getting clarification from the General manager that a maximum of Rs.50,000/- (Rupees Fifty Thousand only) will be provided, however, the second respondent gave a false information to M.Muthuraj as if the General Manager agreed to pay Rs.1,00,000/- (Rupees One Lakh only) and in view of the false information, the second respondent and Muthuraj refused to meet the General Manager, in view of the false promise the General Manager refused to meet the second respondent. Subsequently, the second respondent continuously absent for 10 days and for his absence, a disciplinary proceedings was initiated and the second respondent participated in the enquiry proceedings and after enquiry, service of the second respondent was terminated, for which, the second respondent raised Industrial Dispute before the labour Court under Section 2A of Industrial Disputes Act and the conciliation officer filed a failure report. Thereafter, the mater was referred to the Labour Court under Section 33(2) of the Industrial Disputes Act.



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Simultaneously an approval petition has also filed by the petitioner Management under 33(2) of the Industrial Disputes Act and the Industrial Dispute also taken action against the second respondent and subsequently, at the instigation of the second respondent the 2A petition was filed before the Labour Court. The Labour Court allowed the petition and passed an award and directed the petitioner-Management to pay a sum of Rs. 3,00,000/- (Rupees Three Lakhs only) as compensation in lieu of reinstatement of the second respondent, within a period of six months from the date of receipt of copy of that order. Challenging the same, the present writ petition is filed by the Management.

3. The learned counsel for the petitioner submitted that the second respondent entered into the General Manager room without permission and enquired the same and give a false promise to other co-employees, as if the General Manager had agreed to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) on Voluntary Retirement Scheme and in view of the above, there was a tussle in between the petitioner and the second respondent and thereby, the petitioner conducted an enquiry and passed an order of



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termination which was approved by the Approval authority under Section 33(2) of the Act. However, without considering the same, the Labour Court passed an award in favour of the petitioner is not sustainable one.

4. The learned counsel for the petitioner further submitted that though the enquiry was initiated as against the second respondent, however, the second respondent not participated in the enquiry and after issuing publication, the order of termination was passed and the same was approved by the Authority, however, the Labour Court passed an award in favour of the second respondent is liable to be interfered with. Accordingly, he prayed for allowing the writ petition.

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

6. This Court perused the award passed by the Labour Court. A perusal of the award makes it clear that on the side of the petitioner-Management, 36 documents were marked. On the side of the second



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respondent/workman, 9 documents were marked. However, in the present case, the allegation as against the second respondent is that the second respondent entered into the General Manager room without permission and gave a false promise to other employees and in view of the same, there was a tussle between the petitioner Management and the second respondent, for which, he was terminated from service, by conducting enquiry. However, the allegation against the second respondent is not heinous one, for which, termination order passed by the Management, is not proportionate and it is highly disproportionate. However, considering the entire materials on record, the Labour Court passed a fair award in favour of the second respondent in lieu of reinstatement, ordered for compensation, which cannot be interfered with and in order to maintain discipline in the petitioner-unit, they passed an award of compensation in lieu of reinstatement, which cannot be interfered with.

7. Accordingly, this writ petition is dismissed. However, the petitioner - Management is directed to pay the compensation amount awarded by the Labour Court without any interest to the second respondent



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and the said amount is directed to be paid within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM

To

1. The Presiding Officer,
Labour Court,
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M.DHANDAPANI, J.

RM

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