



W.P.(MD)No.6890 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.6890 of 2018

and

W.M.P(MD)No.6618 of 2018

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

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.K.Periyasamy

... 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.72/2011, dated 15.11.2017 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.72/2011, dated 15.11.2017

2. The case of the petitioner-Management is that the second respondent was working in the Spinning Department. Whiles, the second respondent absented from duty for 86 days from the month of May to December 2007 and the second respondent neither submitted a leave letter nor obtained any prior permission. As per the Standing Order 15(e) an



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employee who absented from duty for more than 10 days is a misconduct.

He was subjected to disciplinary action and upon proving of the misconducts held in the enquiry, by an order, dated 04.07.2009, he was terminated from service, for which, the second respondent raised an Industrial Dispute before the Labour Court under Section 2A of Industrial Disputes Act and the Conciliation Officer had filed a failure report. Thereafter, the matter was referred to the Labour Court under Section 33(2) of the Industrial Disputes Act. Simultaneously, an approval petition has also been filed by the petitioner-Management under Section 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.



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

4. 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, 50 documents were marked. On the side of the second respondent/workman, 10 documents were marked. However, in the present case, the allegation as against the second respondent is that the second respondent was absent for 86 days, without any prior permission, for which, he was terminated from service, by conducting an 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 had 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.



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5. 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 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.

15.02.2023

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

RM

To

1. The Presiding Officer,
Labour Court,
Madurai.



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M.DHANDAPANI, J.

RM

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