



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.23274 of 2016

and

W.M.P(MD)No.16718 of 2016

1. The Correspondent,
Saint Xavier's Engineering College,
Chunkankadaï,
Nagercoil – 3,
Kanyakumari District.
2. The Viciar General,
R.C.Kottar Diocese,
(Now under the control of Kuzhithurai Diocese),
Bishop's House,
Post Box No.17,
Asaripallam Road,
Nagercoil – 1.

... Petitioners

- Vs. -

1. The Presiding Officer,
Labour Court,
Tirunelveli,
Tirunelveli District.
2. R.Prince Robinson

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records on the file of the 1st respondent pertaining to its order in I.D.No. 88 of 2015 dated 28.07.2016 and 01.03.2016 and to quash the same.

For Petitioner : Mr.S.C.Herold Singh

For R-1 : Labour Court

For R-2 : Mr.C.Kishore

ORDER

This writ petition is filed challenging the ID order passed in I.D.No. 88 of 2015, dated 28.07.2016.

2. Heard M/s.S.C.Herold Singh, the Learned counsel appearing for the Petitioner and Mr.C.Kishore, the Learned counsel appearing for the 2nd respondent and perused the material documents available on record.

3. The petitioners' College is a minority institution which comes under the control of the Bishop of R.C.Diocese of Kuzhithurai, Kanyakumari District. The 2nd respondent was working as a Driver in the petitioners' institution.



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6. The Labour Court after analyzing the evidences and documents has come to the conclusion that the punishment imposed on the petitioner is on higher side. The Labour Court has granted reinstatement, continuity of service with 50% back wages. Aggrieved over the same the present writ petition is filed.

7. The contention of the petitioner management is that the petitioner had created embarrassment by misbehaving within the college premises. If such behaviour is allowed and if action is not taken then the same would lead to indiscipline among the employees of the college. If the 2nd respondent is retained in service then the work atmosphere would be spoiled, hence the punishment was imposed.

8. The contention of the 2nd respondent is that he requested to consider hike his salary by the management. However, the petitioner management did not hear the 2nd respondent voice. Therefore, he raised his voice and he demanded his salary and when the same was not considered he indulged in strike. The Labour Court has elaborately considered the issue and thereafter has held the punishment imposed on the 2nd respondent is disproportionate.



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9. By taking all these facts into consideration, this Court is of the considered opinion that the Labour Court is right in coming to the conclusion that the punishment is disproportionate, thereby directed to reinstate. However, misbehaving of the 2nd respondent cannot be accepted and therefore, the 2nd respondent ought to be imposed with punishment. If the backwages is deprived then the same could be considered as punishment. Therefore, to meet the ends of justice this Court is of the considered opinion that the 2nd respondent is not entitled for backwages which could be considered as punishment. Also, the 2nd respondent is not entitled to backwages under the principle of '**No work No Pay**'. The Petitioner management is directed to reinstate the petitioner with continuity of service. The said exercise shall be completed within a period of 4 weeks from the date of receipt of a copy of the order.

10. With these directions and observations, this Writ Petition is allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
ksa

30.06.2023



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To

1. The Presiding Officer,
Labour Court,
Tirunelveli,
Tirunelveli District.



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.23274 of 2016**

30.06.2023