



W.P.No.12040 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 02.12.2024

CORAM:
THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.12040 of 2008

The State Government of Tamil Nadu,
Department of Sericulture,
Represented by its Asst. Director,
Foulkes Compound, Annai Medu,
Salem 636 601.

... Petitioner

Vs.

1. M.Ramasamy
2. The Presiding Officer,
Labour Court, Salem.

...Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the orders dated 10.10.2007 made in I.D.No.69/2004 on the file of the Labour Court, Salem the second respondent herein and quash the same.

For Petitioner : Mr.K.Surendran,



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Additional Government Pleader

For Respondents

: Mr.K.M.Ramesh, Senior Counsel
for Mr.V.Subramani, for R1
Labour Court - R2

ORDER

This Writ Petition is filed by the Management, Government Sericulture Silk Farm represented by its Assistant Director, Yercaud Salem aggrieved by the award passed by the second respondent Labour Court, Salem, dated 10.10.2007 made in ID.No.69 of 2004. By the said award the first respondent Workman was directed to be reinstated into service with back wages and continuity of service.

2. The brief facts leading to the filing of the Writ Petition are that it is the claim of the first respondent Workman that he has been working in the petitioner management for long number of years on a daily wage basis. Deductions for Provident Fund etc., were also made. He had been working for about 20 years at that point of time. While so, by an order dated 01.10.2002 alleging that he abused the superiors and insubordination, he was terminated



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from service. Aggrieved by the same, he raised a dispute and upon the conciliation ending in failure, the present claim was taken on file in I.D.No.69 of 2004.

3. The claim petition is resisted by the management, firstly, on the ground that there is no commercial activity in the Government Silk Farm and therefore being an arm of the Department of the Government, the provisions of the Act are not applicable.

4. It is their further case that the Workman is only a daily wage employee. He has been warned more than 100 times and in spite thereof, he was not working properly and his claim petition is only to wrongfully get the wages from the Government. The Labour Court considered the case of the parties and found that *Ex.P1* being penal in nature as it made allegations, held that the termination of the Workman without holding a domestic enquiry is erroneous and ordered reinstatement with back wages. Aggrieved by the same, the management is before this Court.



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5. Mr.K.Surendran, the learned Additional Government Pleader appearing on behalf of the petitioner Management would submit that firstly the provisions of the Industrial Disputes Act are not applicable in respect of the petitioner as there is no commercial activity which would be clear from the Government Order. Secondly, he would submit that when the Workman was only a daily wage employee, there was no question of conducting a domestic enquiry and passing an order. Thirdly, he would submit that the subsequent events, thereby, even after reinstating the Workman, he has not been working properly and has been only litigating which should also be taken into account by this Court. In any event, he would submit that 17-B wages have also been paid to the Workman and for some period after 2010-2011 he abstained from duty and therefore wages were not paid. Currently, with effect from 01.04.2019 he has absented from duty, therefore he is no more in service.

6. Per contra, Mr.K.M.Ramesh, the learned Senior Counsel



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appearing on behalf of the Workman would submit that firstly the question that whether the Workman would come within the provisions of the Industrial Disputes Act, has already been settled by this Court by the order in Writ Petition No.41897 of 2006. Secondly, he would submit that even though the Workman is only a daily wage employee, when **Ex.P1** clearly levels allegations and he has been terminated by way of punishment, then passing the order without conducting domestic enquiry is erroneous. In respect of the same Workman, when the earlier industrial dispute was pending, this order was passed without even taking an approval from the appropriate Authority. The subsequent events with reference to non employment, transfer and absenting from duty with effect 01.04.2019 are all subject matters of different industrial disputes and claims which are pending at various stages. Therefore, he would submit that the Labour Court is right in ordering reinstatement with back wages.

7. I have considered the rival submissions made on either side and perused the material records of the case.



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8. With reference to the question whether the petitioner management being a Government Department would come within the provisions of the Industrial Disputes Act, the said question is no longer *res integra*, as the same has been settled by this Court in several orders in the Writ Petitions including the order in W.P.No.41897 of 2006. Secondly, with reference to the award passed by the Labour Court, it can be seen that **Ex.P1** termination order categorically mentions the misconduct on the part of the Workman and terminates the Workman. If the Workman is on a daily wage basis, it was very well open for the management to pass an order of termination simpliciter. When the termination is for the misconduct committed by the Workman, the same could not have been passed without conducting of domestic enquiry and hearing the Workman.

9. In view thereof, no exception whatsoever can be taken to the order of the Labour Court. As a matter of fact, the petitioner management did not also plead that it would lead evidence before the Labour Court on the merits of the charge to prove the charge and justify the punishment. In the



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absence thereof, the Labour Court had no other option than to order reinstatement. Coming to the back wages, when absolutely no enquiry whatsoever has been conducted and when the management did not even take steps to let in evidence before the Labour Court to prove the charge, then when the Labour Court has ordered backwages for the said period i.e., from 01.10.2002 till the date of the award i.e., 09.10.2007, no exception can be taken for the findings of the Labour Court. Accordingly, I do not find any merits in the Writ Petition. As far as the subsequent events are concerned, it is stated that those are the matters where the workman has raised dispute and the same is pending and as such this Court is not making any observation whatsoever with reference to the same.

10. As far as the present award is concerned, it only orders reinstatement of the Workman along with back wages. The Workman had already since been reinstated and that portion of the award has already been complied with. The only question which remains is the back wages. Since this Court finds no merits in the Writ Petition, the same shall be paid. The backwages are to be calculated and paid within a period of 8 weeks from the



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date of receipt of the copy of the order and the same shall not carry any interest. If the same is not paid within the above time, the same shall be paid with further interest at the rate of 9% per annum from today.

11. In view of the findings, this Writ Petition is disposed of on the following terms;

1) The award of the Labour Court dated 10.10.2007 made in I.D.No.69 of 2004, shall stand confirmed;

2) The fact that subsequently the Workman has been reinstated into service has been recorded;

3) There has been subsequent dispute with reference to the Workman and the same is the subject matter of other disputes is also recorded;

4) The fact that the wages have been paid from 01.03.2002 to 13.09.2002 is recorded and for the period 01.10.2002 up to 09.10.2007, the back wages shall



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be calculated and paid to the Workman within a period of 8 weeks from the date of receipt of copy of this order. If the said amount is not paid within the 8 weeks time then the same will carry interest at the rate of 9% per annum from today.

No costs.

02.12.2024
(½)

Neutral Citation : Yes
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To

The Presiding Officer,
Labour Court, Salem.



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D.BHARATHA CHAKRAVARTHY, J.

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