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W.A.No.2503 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2503 of 2024
and C.M.P.No.17900 of 2024

The Management,
Nellikuppam Municipality,
Rep. by its Commissioner,
Nellikuppam Post, Panruti Taluk,
Cuddalore District-607 105

... Petitioner/Appellant

Vs.

1.P.Lakshiminarayanan

2.The Presiding Officer,
The Labour Court,
Cuddalore.

... Respondents/Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order passed by this Court in W.P.No.543 of 2015 dated 28.03.2023.



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For Appellant : Ms.S.Arabu Nisha

For Respondents : No Appearance - R1

Labour Court - R2

JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order of a learned Single Judge of this Court made in W.P.No.543 of 2015 dated 28.03.2023.

2. Heard Ms.S.Arabu Nisha, learned counsel for the appellant.

3. Claiming that the first respondent / workman was in continuous service for a period of 240 days in the preceding calendar months and the Management has passed an order of termination, without following the procedure contemplated for retrenchment under Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), he has filed a petition before the Labour Court, Cuddalore in I.D.No.15 of 2013. According to the first respondent, he was inducted as an overhead tank



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operator on 01.02.2006 and therefrom, he had been in continuous service till 31.01.2012 when his services were terminated.

4. The Management had filed their counter before the Labour Court, in which they had not denied the claim of the workman that he was in continuous service for 240 days in the preceding calendar months. While that being so, the conduct of the Management, in terminating a person, who squarely falls under the definition of a workman under Section 2 (oo) of the Act, without following the procedure under Section 25F of the Act, would be illegal as laid down in several decisions of the Hon'ble Supreme Court, as well as this Court. In one such decision of the Hon'ble Supreme Court in the case of *Jasmer Singh vs. State of Haryana and Another*, [(2015) 4 SCC 458], it has been categorically held that even in cases where a workman who is on daily wages / temporary employment and who has put in 240 days of continuous service in an industrial establishment, the procedure under Section 25F requires to be adopted before retrenchment.

5. It is in this background, the Industrial Tribunal has set aside the order of termination and had ordered for reinstatement with continuity of



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service together with back wages. The learned Single Judge had also taken note of this aspect and had observed that the retrenchment was illegal, since it was not in compliance with the procedure contemplated under 25 F of the Act, had rejected the Management's challenge to the award.

6. We do not find any infirmity or illegality with the award of the Labour Court or the order of the learned Single Judge. Accordingly, this Writ Appeal stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [C.K., J]

27.08.2024

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

The Presiding Officer,
The Labour Court,
Cuddalore.



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