



W.P.No.1256 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.1256 of 2004

Thomas Mathew

... Petitioner

Vs.

1.The Labour Court,
Presiding Officer,
Coimbatore.

2.The Management of Singara Estate,
Post Box No.15,
Coonoor - 643 101,
Nilgiris,
Tamil Nadu.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the Award dated 12.08.2003 passed by the first respondent Labour Court, Coimbatore in I.D. No.564/1999 and quash the same as being illegal and unjust and direct the second respondent to reinstate the petitioner with continuity of service, back wages and all other attendant benefits.

For Petitioner : Mr.V.Govardhanan

For R2 : Mr.S.Jayaraman



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ORDER

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The writ petition has been filed, challenging the Award of the Labour Court, Coimbatore dated 12.08.2003 made in I.D. No.564 of 1999.

2.The petitioner has raised an Industrial Dispute on the allegation that he has been illegally terminated in I.D. No.564 of 1999 and the same was dismissed. Aggrieved over the same, the petitioner has preferred this writ petition.

3.The petitioner, who has been working as an Employee with the second respondent/Estate, has been transferred from Upper Division Quarters to Lower Division Quarters on 14.08.1997. The petitioner did not vacate the Upper Division Quarters. On the allegation that the petitioner also retained the Lower Division Quarters, the petitioner was given with the charge of misconduct. After domestic enquiry was initiated, the charge against the petitioner was proved and thereafter, the petitioner was removed from service.



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4.The learned counsel for the petitioner submitted that the petitioner continued to occupy the Upper Division Quarters only considering the education of his children and at no point of time, he has retained the Lower Division Quarters.

5.The above submission made by the learned counsel for the petitioner cannot be accepted. Once the petitioner was transferred from Upper Division to Lower Division, he is expected to vacate the Upper Division and hand over the keys to the Management and proceed to occupy the quarters given to him in the Lower Division. Despite the petitioner has been transferred on 07.12.1996, he did not choose to vacate the quarters till 2004.

6.The petitioner's argument is that he was in occupation for only one quarters i.e. Upper Division Quarters even though he has been transferred to Lower Division Quarters. In the Award of the Labour Court and in the domestic enquiry report, it was observed that the petitioner was in occupation of both the quarters.



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7.The Records Exs.M3 to M5 would show that the petitioner has been consistently requested to vacate the Upper Division Quarters and proceed to get the Lower Division Quarters. Even though in the notice given by the respondent/Management on 11.02.1998, the respondent/Management has provided for transporting the belongings of the petitioner, the petitioner did not proceed to accept the same.

8.The learned counsel for the petitioner submitted that there is no rules prescribing time limit to vacate the quarters after the person is transferred from the Upper Division to Lower Division or from the Lower Division to Upper Division. Even in the absence of any rules, it cannot be said at any stretch of imagination that the staff can occupy a quarters for nearly eight years after he was transferred from Upper Division to Lower Division. In fact, the petitioner has been provided with the quarters in the Upper Division and he is expected to get the Lower Division Quarters once he has been transferred to Lower Division Quarters. Though the misconduct of occupying the Upper Division Quarters and causing delay in handing it over cannot be the serious misconduct in normal course should



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not attract a capital punishment of dismissal, in the instant case, the petitioner had managed to occupy the Upper Division Quarters for eight years by stating some reasons or other. He was given more than enough time for surrendering the quarters.

9. Even if the petitioner's transfer was during any academic year, he is expected to continue till the completion of the academic year after getting appropriate permission from the appropriate authority. The petitioner cannot state that he is entitled to continue to be in occupation in the quarters in-definitely without obeying the orders of his superior authorities. The blanket refusal to vacate the quarters and thereby committing continued disobedience has invited capital punishment to the petitioner. As stated already, the petitioner's attitude in not vacating the quarters, has become a grave misconduct in view of the fact that he had not chosen to vacate the premises after eight years. It will be very difficult for the respondent/Management to manage this kind of workers, who did not have the least regard to the orders of the Management and that would cause the barren harmony of the institution and the conduct of the petitioner will



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also set a bad precedent for others to follow if it is not checked with maximum punishment. If the Management refused to grant even a few months extension and forced the petitioner to vacate the quarters, it is understandable that the petitioner could have been aggrieved. Despite several orders served upon the petitioner, he blatantly refused to obey the orders and invited the charges and the consequential punishments. The Labour Court has rightly appreciated the materials in a holistic manner and satisfied with the award of punishment of dismissal. Hence, the petitioner does not deserve any sympathy for a reversal or modification of the punishment imposed on him. Hence, I do not find any reason for interference.

10.In the result, this Writ Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

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Index: Yes / No
Speaking order / Non-speaking order
vga



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The Labour Court,
Presiding Officer,
Coimbatore.



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R.N.MANJULA ,J.

vga

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