



WEB COPY



W.P.No.2068, 2070 & 2073 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.01.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.2068, 2070 & 2073 of 2020

and

WMP.Nos.2406, 2409 & 2415 of 2020

The Management,
Hutsun Agro Products Ltd.,
Rep. by its Authorized Signatory B. Muthunathan,
Attur Main Road,
Karumapuram,
Salem 106.

...Petitioner in all W.P. Nos.

Vs.

M.Vijayakumar
N.Ramanujam
S.Balasanmugam

...Respondent in W.P.No.2068 of 2020
...Respondent in W.P.No.2070 of 2020
...Respondent in W.P.No.2073 of 2020

Prayer in W.P.No.2068 of 2020: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the Presiding officer, Labour Court, Salem in I.D. No. 92



W.P.No.2068, 2070 & 2073 of 2020

of 2011 and quash its Award dated 29.08.2019.

Prayer in W.P.No.2070 of 2020: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the Presiding officer, Labour Court, Salem in I.D. No. 93 of 2011 and quash its Award dated 29.08.2019.

Prayer in W.P.No.2073 of 2020: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the Presiding officer, Labour Court, Salem in I.D. No. 69 of 2012 and quash its Award dated 29.08.2019.

For Petitioner : Mr.S.Ravindran

Senior Counsel for Mr.S.Bazeerahamed

in all W.P.Nos.

For Respondents : Mr.K.V.Shanmuganathan

in all W.P.Nos.

COMMON ORDER

Writ Petition is filed challenging the Award of the Labour Court in I.D.Nos'. 92 & 93 2011 and 69 of 2012, dated 29.08.2019 directing the petitioner to reinstate the respondents with backwages and all other



W.P.No.2068, 2070 & 2073 of 2020

attendant benefits from 05.03.2010.

WEB COPY

2. The respondents were working with the petitioner as staff's in the dispatch section as delivery Assistant and were paid salary of Rs.6200/-, 7315/- and 5800/- per month respectively. The respondents worked for 17, 19 and 18 years with the petitioner management. While so, when the respondents demanded the petitioner to pay them over time wages, the petitioner prevented the respondents to report for duty from 01.12.2009 to 05.03.2010 and subsequently the respondents were dismissed from service without following the labour procedure and in violation of principles of natural justice. As the conciliation proceedings failed, the respondents raised the industrial dispute claiming reinstatement along with all attendant benefits.

3. The petitioner stated that while the respondents were working in the dispatch section, during the inspection it was found that there was a shortage of Rs.1,69,830/-. When the enquiry commenced, in order to avoid the same the respondents remained absent from 24.12.2009. The



W.P.No.2068, 2070 & 2073 of 2020

respondents reported for duty on 08.01.2010, 19.01.2010 and 21.01.2010 and thereafter were absent from duty on 24.12.2009. The petitioner sent notices to the respondents on 09.03.2010 to join duty. The respondents neither reported for duty nor sent any reply. According to the petitioner the respondents abandoned their service. According to the petitioner the allegation of the respondents that they were not permitted to report for duty from 01.12.2009 to 05.03.2010 was false. The petitioner therefore stated that it was the respondents who abandoned the service and so there was no termination by the petitioner of their service.

4. The Labour Court on an appreciation of the entire evidence on record allowed the claim petition and passed impugned Award directing the petitioner to reinstate the respondents with backwages and all other attendant benefits from 05.03.2010. Aggrieved by the Award of the Labour Court the petitioner has filed the above writ petition.

5. The learned Senior counsel for the petitioner submits that the Award of Labour Court directing reinstatement of the respondents with all



W.P.No.2068, 2070 & 2073 of 2020

attendant benefits from 05.03.2010 is erroneous and unsustainable as the Labour Court did not give any finding on the oral termination. According to the learned Senior counsel the Labour Court's Award is perverse, as it has failed to appreciate relevant documents produced by the petitioner, particularly Ex.R1 and Ex.R2 viz., Copy of Inspection report and Copy of letter by the respondent to the petitioner, which would show that there was no oral termination by the petitioner on 05.03.2010.

6. The learned counsel for the respondents on the other hand submitted that the Award of the Labour Court was based on proper appreciation of evidence and therefore it cannot be said to be perverse. The learned counsel submitted that the Award of the Labour Court is fair and reasonable and the same did not call for any interference in the writ petition.

7. I have heard both the learned counsels and I have perused the materials placed on record.



W.P.No.2068, 2070 & 2073 of 2020

8. It is seen from the Award of the Labour Court that the Labour Court even without returning any finding on oral termination, merely directed the petitioner to reinstate the respondents with backwages and all attendant benefits from 05.03.2010. In my view in the absence of finding on oral termination, which was denied by the petitioner, the Award of the Labour Court cannot be sustained. According to the respondents the petitioner prevented the respondents from reporting for duty from 01.12.2009 to 05.03.2010, but there is absolutely no evidence in support of the said plea. On the contrary from Ex.R2 dated 09.03.2010, it is clear that the petitioner not only denied the termination of the respondents, but advised the respondents to report for duty. On 23.03.2010 also the petitioner addressed a letter to the respondents advising them to report immediately for duty. As against the documentary evidence of the petitioner, the Labour Court relying on the oral statement of the respondents that they were orally terminated, passed the Award directing reinstatement. I am of the view that the Award of the Labour Court is unsustainable and deserves to be set aside.



W.P.No.2068, 2070 & 2073 of 2020

9. It is submitted by the learned Senior counsel for the petitioner that subsequently on 10.01.2020 the respondents were reinstated without prejudice to the result of the writ petition. Thereafter the respondents reported for duty on 16.01.2020 and were again terminated from service on 31.08.2020. The said termination is challenged before the Labour Court, Salem in I.D.Nos. 30, 31 and 32 of 2021 and the same is pending.

The above submission is recorded and the Award of the Labour Court dated 29.08.2019 is set aside. Accordingly all the writ petitions are allowed. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

12.01.2024

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No

dsn



WEB COPY



W.P.No.2068, 2070 & 2073 of 2020

N.MALAJ.

dsn

To

The Presiding officer,
Labour Court, Salem

W.P.No.2068, 2070 and 2073 of 2020

12.01.2024

8/8