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W.P.Nos.20695 of 2013 and 14912 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.20695 of 2013 and 14912 of 2015

and

M.P.No.1 of 2013 in W.P.No.20695 of 2013,

M.P.No.1 of 2015 in W.P.No.14912 of 2015

and

W.M.P.No.26310 of 2016 in W.P.No.14912 of 2015

The Management of A.S. Transport Pvt. Ltd.,
No.66, Nungambakkam High Road,
Chennai – 600 034.

..Petitioner in both the W.P.s

Vs.

1.The Presiding Officer,
First Additional Labour Court,
Chennai.

2.R.Ramu

..Respondents in both the W.P.s

PRAYER in W.P.No.20695 of 2013: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorari, to call for the records to quash the Award dated 20.11.2012 in I.D.No.313 of 2012 on the file of the first respondent Labour Court, Chennai.



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PRAYER in W.P.No.14912 of 2015: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of Certiorari, to call for the records connected with C.P.No.399 of 2013 on the file of the 1st respondent, first Additional Labour Court, Chennai and to quash the order dated 07.10.2014 made therein.

For Petitioner : Mr.M.R.Dharanichander

For 2nd Respondent : Mr.S.Ravi

ORDER

The writ petitions have been filed challenging the orders of the learned Additional Labour Judge, Chennai dated 20.11.2012 made in I.D.No.313 of 2001 and the order dated 07.10.2014 made in C.P.No.399 of 2013.

2. On an Industrial dispute raised by the 2nd respondent/ workman claiming that his dismissal from service is illegal, the Labour Court passed an award for reinstatement along with 25% back-wages with continuity of service and all other retirement benefits. Thereafter, the 2nd respondent has filed the Claim Petition No.399 of 2013 and the labour Court has directed the Management to pay a sum Rs.3,40,000/- to



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the 2nd respondent.

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3. The Management has filed the present writ petitions challenging the said awards on the ground that the Labour Court has accepted the fairness of enquiry and also the charges have been proved and hence under Section 11A of the Industrial Disputes Act, the quantum of punishment alone was reduced. But, according to the petitioner, the allegations are serious in nature and the petitioner does not deserve any modification of punishment and the Labour Court has omitted to appreciate the gravity of charges before reducing it to a denial of 75% back-wages alone.

4. The charges against the 2nd respondent is that he had, with a malicious intention, made deliberate statements against the Management publicly and thereby brought dis-repute to the Management. The allegation is that he was in the habit of sending letters with false allegations about the Management stating that he was under threat. Such letters are being addressed to the Chief Minister and the Governor's Office. As this has caused embarrassment to the Management, the 2nd respondent has been given with show cause and after getting his reply he



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was subjected to disciplinary enquiry and after the conclusion of enquiry, the charges were held to be proved.

5. Even when the 2nd respondent has taken a plea that the enquiry was not fair and proper, a preliminary enquiry has been conducted by the labour Court and had arrived at a conclusion that the enquiry was fair and proper. With regard to the charges, it has been proved against the 2nd respondent and also the labour Court has appreciated the copies of the letter produced by the Management, wherein, slanderous allegations are made against the Management. It is learnt that the 2nd respondent was not able to disprove that those letters were not written by him.

6. If an employee sends such defamatory and slanderous allegations against the Management and its officers that would only cause dis-repute to the Institution. On considering the documents on the side of the Management especially Ex.M3, which proved the above allegations and the 2nd respondent's conduct of not denying these allegations, the labour Court has arrived at a conclusion that the report of the enquiry officer is fair and proper and that it is valid.



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7. After having accepted that the charges have been proved in a fair and proper manner, the labour Court has thought it fit to reduce the punishment from dismissal to reinstatement with reduction of back-wages, on a consideration that the misconduct of the 2nd respondent is not that grave so as to attract the capital punishment of dismissal. The labour Court has shown indulgence to modify the same. Even before this Court the petitioner did not produce any document to show that the 2nd respondent has been in the habit of causing habitual violations of any other code of conduct of the Company.

8. Since the charges of this nature appear to be an isolated one and there are no other allegations against the 2nd respondent, I feel that it was fair on the part of the labour Court to consider to reduce the punishment from dismissal to reinstatement with reduction of back-wages. However, the 2nd respondent was not allowed to go scot-free and the period for which he was out of service, though treated as duty, only 25% of the back-wages has been allowed. As the respondent did not make out any ground to shake the reasonableness and logical conclusion arrived at by the labour Court, I do not find any reason for interference.



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9. However the 2nd respondent has now attained the age of superannuation and the relief of reinstatement is not going to serve at this length of time. The 2nd respondent seems to be dismissed from service in 1999 but thereafter no fruitful purpose has been achieved, though the litigations are pending for quite some years. Hence, I feel that in all practical terms the relief of reinstatement can be modified as that of lump-sum compensation. It is learnt that the petitioner had already deposited Rs.1,70,000/- towards 25% of back-wages as allowed by the Court and that can be allowed to be withdrawn by the 2nd respondent.

10. It seems that the petitioner has also been paying 17-B wages to the 2nd respondent for some time. Taking into consideration of all these factors and also considering the fact that the respondent also did not press for further 17B wages, probably because he has been engaged elsewhere, the compensation can be fixed at a sum of Rs.3,00,000/- apart from Rs.1,70,000/-, which has already been deposited and allowed to be withdrawn by the 2nd respondent.

11. With the above directions, these Writ Petitions are disposed



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of. No costs. Consequently, the connected miscellaneous petitions are closed.

26.09.2024

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Speaking order / Non-speaking order

To:-

The Presiding Officer,
First Additional Labour Court,
Chennai.



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R.N.MANJULA, J.

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