



W.P.No.40487 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.40487 of 2005

A.S.Thangamuthu

... Petitioner

Vs.

1. The Labour Court,
rep. by its Presiding Officer,
Coimbatore.

2. Swamy and Swamy Plantations (P) Ltd.,
rep. by its Managing Director,
Hi Field Estate, Coonoor – 643 101.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records relating to the Award dated 22.07.2004 passed by the first respondent Labour Court, Coimbatore in I.D.No.308/2000 and quash the same as being illegal, arbitrary and unjust and direct the second respondent management to grant all the benefits due to the petitioner arising out of reinstatement with continuity of service, back wages and all other attendant benefits until he reached the age of superannuation.



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For Petitioner : Mr.V.Govaradhan
for M/s. Row and Reddy

For R2 : Mr.S.Mukunth
Senior Counsel
for Mr.N.Krishnakumar
for M/s.Sarvabhauman Associates

R1 : Labour Court

ORDER

This writ petition has been filed challenging the Award dated 22.07.2004 passed by the first respondent Labour Court, Coimbatore in I.D.No.308/2000 and to direct the second respondent management to grant all the benefits due to the petitioner arising out of reinstatement with continuity of service, back wages and all other attendant benefits until he reached the age of superannuation.

2. On 23.10.2024 this Court has passed the following order:

“ At request of the learned counsel for the respondent, to get instructions as to the possibility of paying gratuity and any other terminal benefits to the petitioner for having rendered 20 years of service at the time when the disciplinary action was initiated and ended in dismissal, list the matter on 29.10.2024.”



3. When the matter is taken up today, Mr.S.Mukunth, the learned Senior Counsel for the second respondent, submitted that the petitioner has not made an application seeking payment of gratuity so far. In that case it is open to the petitioner to file the required forms and the petitioner can make his endorsement in the manner known to law and process the same for releasing the gratuity.

4. So far as the merits of the matter is concerned, this Court could only say that even at the time of filing the writ petition, the petitioner was 57 years old and has been working as a Field Officer in the second respondent plantation and he has rendered 20 years of service. The allegations against the petitioner is that he has allowed to cut 19 extra Oak trees while he was in-charge of the plantation division by getting illegal gratification. As the charges against the petitioner were proved, he was dismissed from the service.

5. Mr.V.Govaradhan, the learned counsel for the petitioner, submitted that no loss has been caused to the second Management because the Contractor has remitted the entire amount for the trees which were cut over and above the permitted limit. The contention of the petitioner is that the other employees who are responsible for overlooking the cutting activities of the Contractors were not



given with any charges. However, the petitioner alone has been made liable for the charges.

6. Taking into consideration of the age of the petitioner and also the pendency of the proceedings for nearly 20 years, I feel some quietus should be given to the matter once and for all. Even though a remedy for reinstatement has been given, that will not serve any purpose because the petitioner would have crossed the age of superannuation by now.

7. Even according to the learned counsel for the petitioner the petitioner is aged 73 years now and it will be helpful if his 20 years of service would be considered for releasing the gratuity or any other terminal benefits. There is no second thought that the charges against the petitioner has been proved and that has been exhaustively analyzed by the Labour Court while dismissing the Industrial Dispute. However, the other contention of the petitioner that the other persons who are also responsible in ensuring that the Contractor shall not cut more than the permitted limit were not given with any other charges.

8. Since cutting of trees is an exhaustive exercise, it is impossible for the petitioner alone to be behind the Contractor and overlook what amount of trees



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are being cut. Since the other persons who could also been in-charge of the field are not fixed as delinquents, I feel some consideration be given to the petitioner and the award be modified to the extent of allowing the petitioner to get the service benefits attached to his 20 years of service alone and confirming the award in rest of the aspects.

9. Accordingly, this Writ Petition is disposed and the award of the first respondent in I.D.No.308/2000 dated 22.07.2004 is modified only to the extent of allowing the petitioner to get the service benefits for his 20 years of service in the second respondent. The impugned award is confirmed in all other aspects. No costs.

29.10.2024

Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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To:

1. The Presiding Officer,
The Labour Court,
Coimbatore.



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R.N.MANJULA, J.

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