



W.P.No.9546 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.9546 of 2024
and
WMP.Nos.25285 & 25288 of 2024

1.AMET University
Rep.by its President/Chairman
No.135, East Coast Road
Kanathur, Chennai 603 112.

2.AMET University
Rep.by its Vice Chancellor
No.135, East Coast Road
Kanathur, Chennai 603 112.

3.AMET University
Rep.by its Registrar
No.135, East Coast Road
Kanathur, Chennai 603 112.

... Petitioners

Vs.

M.Chinnapaiyan, F.I.S.E.Fellow

...Respondent



W.P.No.9546 of 2024

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, after calling for the concerned records from the Labour Court, Kancheepuram in I.D.No.777 of 2018 dated 22.12.2023, quash the award of the Labour Court, Kancheepuram in I.D.No.777 of 2018 dated 22.12.2023 as illegal, arbitrary and contrary to law.

For Petitioners : Mr.Balan Haridas

For Respondent : Mrs.V.Pushpalatha

ORDER

This Writ Petition is filed challenging the order passed in I.D.No.777 of 2018 dated 22.12.2023. By the said award, the Workman was directed to be reinstated into service with all backwages, monetary benefits and continuity of service, till the date of his superannuation and to pay all the retirement benefits.

2. The factual background in which this Writ Petition arises is that the Workman is employed as Laboratory Assistant in the petitioner management which is an University. While so, the Workman seems to have written a letter to the higher officials making certain allegations against the



W.P.No.9546 of 2024

Registrar of the University and also the Head of the Department of Mechanical Engineering. A committee was constituted to go into the allegations levelled by the Workman. The committee submitted its report dated 23.05.2013 stating that during the enquiry, the workman could not produce any evidence to substantiate the allegations made against the Registrar and Head of the Department, Mechanical Engineering and he was given a week time additionally to produce any documentary evidence to substantiate his allegations. Even thereafter, he did not submit any documentary evidence. Therefore, the committee concluded that his allegations against the Registrar and Head of Department, Mechanical Engineering are false. The committee also recommended that severe disciplinary action amounting to termination from the job to be initiated against Workman.

3. It seems that thereafter, without even issuing any charge memorandum, straight away an order of termination was passed on 07.06.2013. The order of termination clearly mentions the allegation against the Workman. Aggrieved by same, the Workman raised a dispute and the



W.P.No.9546 of 2024

conciliation failed. The claim petition filed by him under section 2A (2) of the Industrial Disputes Act was taken on file as I.D.No.83 of 2015 and later on renumbered as ID.No.777 of 2018 upon being transferred to the Labour Court, Kanchipuram. By a preliminary award, the procedure followed was held to be unfair because not even a charge Memorandum was issued and no domestic enquiry was held. Thereafter, the Labour Court granted an opportunity for the parties to lead evidence on the merits of the charges.

4. It is contented on behalf of the management that in spite of objection, the workman was permitted to lead evidence. On behalf of the Workman, he examined himself as *W.W.1* and **Ex.W.1 to Ex.W.19** were marked. During his cross examination, the management also marked **Ex.M.1 and Ex.M.2**. When the turn came for the management to lead evidence, they did not lead any evidence and their evidence was closed and after arguments, an award has been passed in favour of the Workman as stated supra.

5. Mr.Balan Haridas, the learned counsel appearing on behalf of the petitioner Management would submit that this is a case where serious



W.P.No.9546 of 2024

charge is made against the workman that he made false allegations against the Registrar and Head of the Department. He submitted that the workman levelled false allegations as if the higher officials swindled the money, therefore the charge is serious. The Labour Court ought to have given an opportunity to the management to let in evidence with reference to the charge and merits. When the time was prayed on behalf of the management without extending an opportunity, the Labour Court closed the evidence and passed the award. Therefore, he would submit that the award of the Labour Court has to be set aside and one more opportunity has to be given to the management for leading the evidence.

6. Per contra, Mrs.V.Pushpalatha, learned counsel appearing on behalf of the Workman would submit that the Management took 13 adjournments from 21.12.2022 to 27.06.2023 and in spite of the matter being adjourned for their evidence on 13 occasions, they did not lead evidence and therefore their evidence was closed and the matter was posted for arguments. She would further submit that when the management chose not even to conduct a disciplinary enquiry and the workman has been terminated



W.P.No.9546 of 2024

only to satisfy the ego of the higher officials. The Labour Court was right in granting the relief to the Workman.

7. I have considered the rival submissions made on either side and perused the material records of the case.

8. Admittedly, when the Management chose to terminate the Workman on allegations which is expressly mentioned in the order of termination itself, no domestic enquiry whatsoever has been held and no opportunity for the workman has been granted. As such the order of termination is unsustainable. The management is entitled to lead evidence with reference to the merits of the charges before the Labour Court and could have proved the charge before the Labour Court also. As demonstrated by the learned counsel for the Workman, it can be seen that the matter was posted for the management to let in evidence on 13 occasions on 21.12.2022, 03.01.2023, 20.01.2023, 01.02.2023, 24.02.2023, 10.03.2023, 28.03.2023, 12.04.2023, 26.04.2023, 05.05.2023, 26.05.2023, 14.06.2023 & 27.06.2023. Only after giving a long rope to the management, the Labour Court chose to



W.P.No.9546 of 2024

close the evidence. The management thinks it fit that without even conducting an enquiry that it is existent in a lawless State, it will straight away terminate the Workman. Thereafter when the Workman was terminated from service in the year 2013, it can drag on the proceedings before the Labour Court to its whims and fancies and that after opportunities will be granted to them. Therefore, I have no hesitation whatsoever in rejecting the submissions made by Mr.Balan Haridas, the learned counsel appearing on behalf of the management that one more opportunity should be granted to the management. As such, the award of the Labour Court cannot be faulted with reference to setting aside the order of termination and ordering reinstatement of the Workman. Since the Workman has attained the age of superannuation with effect from 05.04.2023, the management is liable to treat him as in service till the date of his retirement and pay all the retiral benefits.

9. The only question which is to be determined by the Court is that with reference to the backwages from the date of termination, i.e., from 07.06.2013 to 05.04.2023 till the date of retirement. With reference to the backwages, it is settled law that it is not automatic but the Court has to



W.P.No.9546 of 2024

consider the period of service, the plea made by the Workman, the plea of the management and all the attendant circumstances while considering the backwages. In this case, the Workman joined service on 27.07.2009 and worked for about a period for four years. Thereafter, the litigation was there pending till date. The period of litigation until superannuation is about 10 years.

10. Considering all the above, I am of the view that, in this case, the interests of justice would be served if the backwages granted by the Labour Court is reduced to 50% instead of 100%. Therefore, this Writ Petition is disposed of on the following terms;

1) The award of the Labour Court made in I.D.No.777 of 2018 dated 28.12.2023 is upheld in as much as it holds that the Workman will be entitled for reinstatement into service with continuity of service and all other attendant benefits till the date of his retirement i.e., on 05.04.2023 and the petitioner management to pay all the retiral benefits to him by



treating him continuously in service till the date of his superannuation;

2) With reference to the backwages alone, it is modified that the Workman will be entitled to 50% of the backwages;

3) The entire benefits due to the Workman shall be paid within a period of 8 weeks from the date of uploading copy of the order in website without waiting for the certified copy of the order. If the amounts are not settled within a period of 8 weeks, thereafter, the amount will be payable with further interest at the rate of 9% per annum from today.

No costs. Consequently, connected Miscellaneous Petitions are closed.

20.12.2024

Neutral Citation : No
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W.P.No.9546 of 2024



W.P.No.9546 of 2024

D.BHARATHA CHAKRAVARTHY,J.

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This matter is listed under the caption “for being mentioned” at the instance of the learned counsel for the petitioner.

2. When the matter was taken up for hearing, the learned counsel for the petitioner brought to the notice of this Court that there is an error in the second sentence of paragraph No. 2, where instead of describing the workman as “Laboratory Instructor”, it has been wrongly mentioned as “Laboratory Assistant.”

3. Accordingly, in the second sentence of paragraph No.2, the words “Laboratory Assistant”, should be substituted with “**Laboratory Instructor**”

4. The Registry is directed to issue a fresh order copy by carrying out the said correction in Paragraph No. 2

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W.P.No.9546 of 2024

D.BHARATHA CHAKRAVARTHY.J.,

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W.P.No.9546 of 2024

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