



W.P.No.24259 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE **N.MALA**

W.P.No.24259 of 2019

N.Santhanam

... Petitioner

Vs.

1.The Chief Superintendent,
Madras Atomic Power Station,
Kalpakkam,
Kanchipuram District,
Chennai – 603 102

2. The Management
Madras Atomic Power Station,
Co-operative Canteen,
Kalpakkam,
Kancheepuram District
Chennai – 603 102

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records relating to the award of the Central Government Industrial Tribunal dated 24.04.2017 in I.D.No.17 of 2016, quash that portion of Award granting compensation of Rs.2,00,000/- and consequently direct the 2nd respondent to give reinstatement with continuity of service along with back-wages and other



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attendant benefits to the petitioner.

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For Petitioner : Mr.S.T.Varadarajulu

For Respondents : Mr.V.Vijayashankar

ORDER

The Writ Petition is filed challenging the award dated 24.04.2017 passed by the Labour Court directing the 2nd respondent to pay compensation of Rs.2,00,000/- instead of reinstatement.

2. The petitioner joined the service of the 2nd respondent / Canteen as Hand Receipt Cleaner on 10.10.1986 and he was terminated from service on 01.09.1999. Therefore, the petitioner raised Industrial Dispute before the 1st respondent in I.D.No.17 of 2016.

3. According to the petitioner, he had put in 13 years of continuous service on a daily wage of Rs.10.30 per day, which was paid on monthly basis. During the year 1993, the services of all employees were regularised and brought in time scale of pay, but the petitioner was denied regularisation. The petitioner, therefore, sent a representation on 10.04.1995 to regularise his service, but inspite of petitioner's



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representation, he was not regularised. The petitioner was denied employment from the year 1999 and therefore, he raised a dispute before the 1st respondent in I.D.No.17 of 2016 to set aside the dismissal order. The Labour Court instead of awarding reinstatement directed the 2nd respondent to pay the compensation of Rs.2,00,000/-. The petitioner filed the writ petition challenging the same.

4. The 2nd respondent remained exparte before the labour court and the claim petition was contested by the 1st respondent. According to the respondents, the petitioner was engaged as a worker by the 2nd respondent, which was registered under Tamilnadu Co-operative Society Act. The 1st respondent never intervened in the affairs of the 2nd respondent / society, except as the principal employer. According to the 1st respondent, the petitioner was engaged by the 2nd respondent to meet the requirements, ie., extra job during the shut down period and not regularly. The work of the petitioner was temporary in nature and moreover at the time of engagement no recruitment procedure was followed.

5. The labour court, on consideration of the entire materials on record, passed the award directing the 2nd respondent to pay the



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compensation of Rs.2,00,000/- to the petitioner. Aggrieved by the award of the labour court in rejecting the claim for reinstatement, the petitioner has filed the writ petition.

6. I have gone through the order of the labour court and find that the labour court has appreciated the evidence on record threadbare and gave a categorical finding that the petitioner was employed under the 2nd respondent and not the 1st respondent. The Labour court relied on the petitioner's claim petition and also on the oral evidence and concluded that there was no employee and employer relationship with the 1st respondent and therefore, the liability could not be passed on the 1st respondent on account of termination of petitioner's service by the 2nd respondent.

7. The labour court further found on the basis of petitioner's evidence and also evidence of M.W.1, H.R. Manager that the canteen run by the 2nd respondent was stopped and the work of the canteen was also stopped. The labour court in the light of the said facts held that even though the petitioner worked with the 2nd respondent for 12 years, the relief of reinstatement could not be granted, as the 2nd respondent canteen was admittedly closed. The labour court, therefore, awarded compensation of



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Rs.2,00,000/- against the 2nd respondent.

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8. I find absolutely no infirmity or illegality in the award of the labour court, therefore, I find no merits in the writ petition.

09. The learned counsel for the petitioner submitted that the compensation may be enhanced, considering that the labour court categorically found that the petitioner had worked for more than 12 years with the 2nd respondent. The learned counsel for the 1st respondent submitted that the compensation of Rs.2,00,000/- though payable by the 2nd respondent was paid by the 1st respondent on sympathetic grounds. The counsel hence prays that the compensation should not be enhanced.

10. It is seen that the 2nd respondent remained exparte before the court below and if the compensation is enhanced though the liability will be of the 2nd respondent, the burden will fall on the 1st respondent. As the 1st respondent has already paid the compensation without any legal liability, I find no justification for enhancing the compensation.

For all the above reasons, I find no merit in the Writ Petition and the Writ Petition is dismissed. There shall be no order as to costs.

01.02.2024

Index: Yes/ No

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Internet: Yes/ No
Speaking Order/ Non Speaking Order
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ssd

To

- 1.The Chief Superintendent,
Madras Atomic Power Station,
Kalpakkam,
Kanchipuram District,
Chennai – 603 102
2. The Management
Madras Atomic Power Station,
Co-operative Canteen,
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N.MALA,J.

ssd



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