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W.P. No. 11621 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.07.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P. No. 11621 of 2014

The Management,
Thiruvengadam Roadlines,
No. 707, Ulundurpet Road,
Vriddhachalam,
Cuddalore District,
Pincode - 606 001.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. K.Selvaraj

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the 1st respondent pertaining to its Award dated 03.12.2013 passed in I.D. No. 71 of 1998 and quash the same.

For Petitioner : Mr. C.Prabhakaran

For Respondents : R1 - Court

R2 - Mr. Karthik Lakshmanan



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ORDER

The instant writ petition has been filed assailing the order of Labour Court dated 03.12.2013 made in I.D. No. 71 of 1998.

2. The brief facts which give rise to the instant writ petition are as follows:-

The 2nd respondent/workman is the petitioner in I.D. No. 71 of 1998 and the writ petitioner/management was arrayed as the 1st respondent before the Labour Court. According to the 2nd respondent/workman, he joined in the petitioner's Roadlines in the year 1964 as a driver and he has been in service for more than 30 years. While so, he was illegally retrenched on 23.05.1997. It appears that the writ petitioner has challenged the retrenchment by raising an Industrial Dispute, which ended against the workman at the first round of litigation by way of an award dated 12.02.2002.

3. Against which, when the workman / 2nd respondent preferred a writ petition in W.P. No. 11795 of 2004, this Court remitted back the matter with the finding that workmen is entitled for compensation. Thus, on remission, the Labour Court has again adjudicated and awarded a compensation of Rs. 1,00,000/- in favour of the 2nd respondent/workman. Aggrieved with the same, the Management has preferred the instant 2nd round of writ petition.



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4. The learned counsel for the petitioner / management would contend that the determination of compensation by the Labour Court is without any basis and that the award amount is excessive. It is also the contention of the learned counsel for the petitioner that there is no reasoning in the order of the Labour Court so as to arrive at such conclusion. Therefore, it is the submission of the learned counsel for the petitioner that the order of the Labour Court is liable to be interfered with.

5. *Per contra*, the learned counsel appearing for the 2nd respondent / workman would contend that the power of this Court under judicial review is very limited. Since because there is a scope for any different interpretation, the same cannot be a reason to substitute the findings recorded by the Labour Court. Hence, the learned counsel for workman prayed to dismiss the writ petition.

6. I have given my anxious consideration to either side submissions.

7. From the perusal of the record, the Labour Court has ventured into the adjudication of the Industrial Dispute No. 71 of 1998 once again by virtue of the order dated 28.02.2013 made in W.P. No. 11795 of 2004. In the said



writ petition, the Writ Court has found that the 2nd respondent herein is entitled for a reinstatement. However, considering his age, this Court directed the Labour Court to determine the compensation in lieu of reinstatement. For ready reference, it is appropriate to extract the relevant paragraph of the writ court order hereunder:-

" 6. In the counter filed by the fourth respondent, it is stated as follows:-

"ஒருவர் தன்னை நிர்வாகம் வேலை நீக்கம் செய்துவிட்டது என்பதை ஆதாரபூர்வமாக நிரூபித்தால் தான் வேலை நீக்கம் என்பது உறுதிபட்டு தொழிற்தகராறு சட்டப்படி மனு செய்ய முடியும். மனுதாரர் விடையத்தில் பணிநீக்கம் என்பதே இல்லை. அலுவலர் அவர்களும், மனுதாரருக்கு அறிவுரை வழங்கி ஒட்டுநர் உரிமத்தை காண்பித்துவிட்டு பணிக்கு செல்ல கூறும்படி நிர்வாகம் கேட்டுக் கொள்கிறது."

*7. From the above it is clear that since the petitioner has not renewed his license, he was asked to attend the duty after renewing his license, but it was not denied by the petitioner. Anyhow, as rightly submitted by the learned counsel for the first respondent, the age of the petitioner was at the time of stopping himself from coming to duty was 59 years of age and therefore, **I am not inclined to order for reinstatement of the petitioner. However, I am of the view that since the petitioner was working since 1964 in the same group of companies, he is entitled for compensation. But the Labour Court has not considered***



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this aspect and simply dismissed the petition filed by the petitioner.

8. In view of the above, the matter is remitted back to the second respondent to consider the above aspect by taking into account the Fine Receipt Ex.W.18, dated 27.3.1983 and other documents filed by the petitioner as exhibits and decide the quantum of compensation to be awarded to the petitioner in the light of the oral and documentary evidence on merits and in accordance with law by impleading the respondents 1 to 3 arrayed before the Labour Officer, if necessary. The Registry is directed to send all the papers relating to this matter to the second respondent, The Presiding Officer, Labour Court, Cuddalore."

Only upon the strength of the above order, the Labour Court has once again adjudicated the matter.

8. While complying the direction of this Court, the Labour Court has categorically taken into consideration the long service of the 2nd respondent qua more than 30 years, found that the awarding of Rs. 1,00,000/- would be just and reasonable compensation. Though, the learned counsel for the writ petitioner / Management would contend that such amount is excessive, they are not in a position to project the case of perversity over the findings recorded



by the Labour Court. While exercising the power of judicial review, the power of this Court is very limited.

9. In this regard, it is useful to refer the following judgments:

- (i) *B.C.Chaturvedi Vs. Union of India* reported in (1995) 6 SCC 149,
- (ii) *Deputy General Manager (Appellate Authority) Vs. Ajai Kumar Srivastava* reported in (2021) 2 SCC 612;
- (iii) *The Indian Oil Corporation & Ors., Vs. Ajit Kumar Singh & Anr.*, reported in 2023 LiveLaw (SC) 478.

Through the above judgments, the following principles are emerging:

- (i) Power of Judicial review is not like an appeal. But such power is meant to ensure that the individual receives fair treatment and to ensure the compliance of natural justice.
- (ii) The power of judicial review is not like a appellate remedy to substitute its own finding, unless the findings of the Disciplinary Authority and Appellate Authority is perverse and without evidence.
- (iii) The High Court had no jurisdiction to review the penalty, unless it is shockingly disproportionate.
- (iv) Since because there is a possibility to arrive at yet



another finding, cannot be a reason to substitute the finding of the disciplinary Authority.

(v) The judicial review is meant only to ensure fairness in treatment and not to ensure fairness of conclusion.

(vi) While exercising the power of judicial review, so long as there is some evidence to support the conclusion arrived at by the departmental authority, the same has to be sustained.

Hence the Labour Court arrived at a conclusion that the workman is entitled for compensation of Rs.1,00,000/- considering the long service of the workman and his age, I am of the view that no perversity could be found in the determination of compensation. Therefore, while applying the above principles to the facts of the present case, this court could not find any perversity over the finding recorded by the Labour Court. Therefore, this Court has no ground to interfere with the order of the Labour Court.

10. In the result, the writ petition is dismissed confirming the order of the Labour Court. At this juncture, the learned counsel for the writ petitioner would submit that they have already deposited a sum of Rs. 50,000/- before the Labour Court. Therefore, the petitioner is directed to deposit the remaining amount before the Labour Court, within a period of 3 months from the date of



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receipt of the judgment and on such deposit, the 2nd respondent / workman is at liberty to withdraw the entire sum along with the accrued interest thereon on filing necessary application. No costs.

19.07.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To
The Presiding Officer,
Labour Court, Cuddalore.



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C.KUMARAPPAN, J.

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