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W.A.No.2595 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

W.A.No.2595 of 2024
and C.M.P.No.18611 of 2024

The President,
Kalpaavi Village Panchayat,
O/o.Ammapettai Panchayat Union,
Ammapettai, Bhavani,
Erode – 638 311.

... Appellant

Vs.

R.Periyasamy

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
praying to set aside the order dated 24.11.2023 made in W.P.No.30006 of
2018 passed by this Court.

For Appellant : Mr.D.Gopal

For Respondent : Mr.S.V.Navin Prabhu
for Mr.K.V.Shanmuganathan



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JUDGMENT

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(Judgment of the Court was made by *M.S.RAMESH, J.*)

When the respondent herein had challenged his oral termination made on 05.10.2002 before the Labour Court, Salem, in I.D.No.148 of 2006, the termination was set aside through an Award dated 16.12.2006 and the appellant/Panchayat was directed to reinstate him with continuity of service, backwages and other attendant benefits. When the Panchayat failed to implement the Award, the respondent had filed a Claim Petition before the Labour Court, Salem, in C.P.No.26 of 2008 under Section 33(C)(2) of the Industrial Disputes Act, for computation of his monetary benefits under the Award. This petition was allowed on 12.11.2008.

1.2. Though the respondent herein had the benefit of backwages, which amounts were also computed by the Labour Court, the appellant had failed to implement these orders, which prompted the respondent to file an Execution Petition in R.E.P.No.229 of 2015. By an order dated 09.11.2016, the Labour Court had allowed the Execution Petition, with a direction to arrest the President of the Panchayat for non-payment of the Award amount.

When this order was challenged before the learned Single Judge of this



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Court in W.P.No.30006 of 2018, the Writ Petition was dismissed, which order is put under challenge in this appeal.

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2. When we had raised a specific query to the learned counsel for the appellant, as to whether the Award passed in original I.D.No.148 of 2006 dated 16.12.2006 was challenged by them, he replied in the negative. Thus, what was before the learned Single Judge was only the order passed in the consequential execution proceedings.

3. If at all the appellant is of the view that the respondent would not be entitled for claiming the backwages, the only remedy available to them is to have challenged the Award of the Labour Court. All the grounds raised before us with regard to the claim of the respondent, touches upon the merits of the industrial dispute, in which, the Award for reinstatement, together with backwages and other benefits were ordered. When admittedly, the Award has become final, it would be illegally impermissible for the appellant to raise grounds, touching upon the merits of the Award, in the Writ Petition, in which, challenge was made to the execution proceedings only.



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4. Thus, when the original Award itself has not been challenged, we fail to understand, as to how the appellant can now challenge the consequential proceedings. In this background, the learned Single Judge had rightly dismissed the Writ Petition, which order according to us, does not require interference.

5. In view of the above, the Writ Appeal stands dismissed. No costs. Connected miscellaneous petition is closed.

[M.S.R., J] [C.K., J]
24.09.2024

Index: Yes
Speaking order
Neutral Citation: Yes
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