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W.A.Nos.2784 & 2796 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2024

CORAM :

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

W.A.Nos.2784 & 2796 of 2023
and
C.M.P.Nos.23389 & 23397 of 2023

The Management of Deccan Enterprises,
No.4, 7th Avenue, Harrington Road,
Chetpet, Chennai – 600 031.
Rep. by its Proprietor K.Krishnamoorthy.

...Appellant in
W.A.No.2784/2023

The Management of Deccan
Designs (India) Pvt. Ltd.,
No.4, 7th Avenue, Harrington Road,
Chetpet, Chennai – 600 031.
Rep. by its Proprietor K.Krishnamoorthy.

...Appellant in
W.A.No.2796/2023

Vs.

1.The Presiding Officer,
1st Additional Labour Court,
Chennai.

..1st Respondent in
both Writ Appeals

2.R.Amalraj

...2nd Respondent in
W.A.No.2784/2023

2.S.Venkatesalu

...2nd Respondent in
W.A.No.2796/2023



W.A.Nos.2784 & 2796 of 2023

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent Act, to allow the Writ Appeals and set aside the common order dated 05.06.2023 passed in W.P.Nos.23579 & 23580 of 2013.

(in both appeals)

For Appellant : Mr.Anand Gopalan
for M/s.Agam Legal

For R1 : Court

For R2 : Mr.R.Arumugam

COMMON JUDGMENT

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

Since the issue involved in both these Writ Appeals is one and the same, with the consent of both the parties, the following common judgment is passed.

2. When the appellants-Management had terminated the services of both the 2nd respondents herein with effect from 14.11.2005, on the allegation that their official performance was poor, Industrial Disputes in I.D.Nos.283 and 284 of 2008 were raised before the 1st Additional Labour Court, Chennai, challenging the orders of termination. In the meantime, since it was claimed by the appellants-Management that their



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Companies were closed with effect from 31.07.2007 and 09.09.2006 respectively, the Labour Court had passed a common award dated 11.07.2013, directing the Management to pay a sum of Rs.5,00,000/- as compensation to each of the 2nd respondents herein, in lieu of their reinstatement in service. Challenging the award of compensation, both the workmen had filed Writ Petitions before this Court in W.P.Nos.23597 and 23580 of 2013 respectively. The learned Single Judge had dismissed both the Writ Petitions, predominantly on the ground that the compensation was awarded by the Labour Court in exercise of its discretion and that the amount not only include the monies that the employees lost, but also to re-compensate them with the mental suffering they had undergone. These orders of dismissal are put under challenge in the present Writ Appeals.

3. The learned counsel appearing on behalf of the appellants-Management submitted that the Labour Court was not correct in holding that the termination of both the 2nd respondents herein was in violation of Section 25F of the Industrial Disputes Act (hereinafter referred to as 'the Act'), since their services were terminated only due to poor performance, not amounting to retrenchment within the meaning of Section 2(oo) of the Act. Even otherwise, he would submit that since the Companies are no



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longer in existence, a sum of Rs.5,00,000/- awarded to each of the workmen was exorbitant.

4. On the contrary, the learned counsel appearing on behalf of the workmen submitted that the Management had failed to establish before the Labour Court that the termination of these workmen was due to their misconduct and therefore, there is no infirmity in the award of compensation by the Labour Court.

5. On the finding that the services of both the workmen were terminated without issuance of any charge memo and in violation of the principles of natural justice and further that the Management had failed to establish the closure of their Companies before the Labour Court, the compensation came to be ordered in favour of these workmen. We do not find any infirmity in such a finding. In normal circumstances, the workmen would be entitled for retrenchment compensation as provided under the Act. However, the Labour Court had restricted the compensation to Rs.5,00,000/- alone to each of the workmen.

6. The learned Single Judge was of the view that the compensation



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was justifiable, since it was in exercise of the discretion of the Labour Court and by way of compensation to the loss of revenue and the mental suffering. Thus, the finding of the Labour Court that each of the workmen would be entitled for payment of compensation, in lieu of re-instatement, does not require interference.

7. However, the learned counsel for the appellants made a request to take into account the fact that the Company has closed down their business way back in the year 2006 and 2007 and sought for interference to the amount of compensation. He further submitted that pending the Writ Petitions, the Management had paid a sum of Rs.1,50,415/- to the 2nd respondent in W.A.No.2784 of 2023 and Rs.1,48,093/- to the 2nd respondent in W.A.No.2796 of 2023, in the month of August, 2013.

8. In consideration of the submission made by the learned counsel for the appellants and by taking into account that the Companies are no longer in existence for more than 18 years, the total compensation to each of the workmen could be fixed at Rs.3,00,000/-.

9. For all the foregoing reasons, the total compensation fixed at



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Rs.5,00,000/- each to both the 2nd respondents herein, by the Labour Court in its award passed in I.D.Nos.283 and 284 of 2008, dated 11.07.2013, as confirmed by the learned Single Judge of this Court in W.P.Nos.23579 and 23580 of 2013, dated 05.06.2023, is modified to Rs.3,00,000/- each. The appellants shall pay a sum of Rs.3,00,000/- to Mr.R.Amalraj, after deducting Rs.1,50,415/- and a sum of Rs.3,00,000/- to Mr.S.Venkatesalu, after deducting Rs.1,48,093/-, within a period of four weeks from the date of receipt of a copy of this judgment.

10. Accordingly, both the Writ Appeals stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

[M.S.R., J] [C.K., J]
06.08.2024

Index:Yes
Neutral Citation:Yes
Speaking order
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To
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The Presiding Officer,
1st Additional Labour Court,
Chennai.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

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