



WEB COPY



W.P.No.19983 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.19983 of 2020
and W.M.P.Nos.24658/2020, 22278 & 22275 of 2021

The President,
T.N.S.T.C.(Salem Division – II),
Employees Co-operative Stores Ltd.,
Bharathipuram,
Salem Main Road,
Dharmapuri – 5.

... Petitioner

Vs.

M.Ravi

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the award passed by the Labour Court, Salem in I.D.No.53 of 2016 dated 06.08.20019.

For Petitioner : Ms.J.Lingitha
for Mr.M.s.Palaniswamy

For Respondent : Mr.S.Kamadevan



W.P.No.19983 of 2020

WEB COPY

ORDER

Heard Ms.J.Lingitha, the learned counsel for the Petitioner and Mr.S.Kamadevan, the learned counsel for the respondent.

2. The petitioner Management has filed this writ petition challenging the award of the Presiding Office of the Labour Court, Salem dated 06.08.2019 made in I.D.No.53/2016. On a Industrial Dispute raised by the respondent workman on the allegation of unlawful dismissal, the Labour Court has passed an award for reinstating the respondent with all other service benefits including back wages from 05.09.2015 however by excluding the monetary and service benefits between the period from 01.10.2014 to 03.11.2015.

3. Ms.J.Lingitha, the learned counsel for the petitioner, submitted that the respondent is a frequent absentee and in an earlier occasion also disciplinary action has been taken against the respondent on the very same allegation of unauthorized leave and he was terminated from service. Later, based on the settlement, he was reinstated and he joined duty on 25.04.2013 after having availed the medical leave. The respondent once



W.P.No.19983 of 2020

again went on leave from 27.04.2013 to 30.04.2013 and again he sent a telegram stating the extension of leave and thereafter, also he did not report to duty.

4. Since the respondent had been removed from service on an earlier occasion on the very same allegation, he ought to have been careful and made sure that his services have been utilized by the Management in a productive manner. This is an appropriate matter in which the Labour Court could have granted any other relief other than reinstatement because it will be difficult for the petitioner Management to engage the respondent's services for a better production. However, the Labour court has considered the medical condition of the respondent and had chosen to pass the award by directing the petitioner to reinstate the respondent into service. But, so far no reinstatement has taken place. Even though the Labour Court has found to be reasonable in allowing the relief of reinstatement by taking into consideration of the comprehensive circumstances of the case, the denial of such reliefs for the period from 01.10.2014 to 03.11.2015 would only show that the respondent had remained unlawfully absent during the said period.

5. In these type of cases even if reinstatement is ordered, allowing of



W.P.No.19983 of 2020

back wages is only luxury for the respondent and an additional commitment for the petitioner Management. It will be difficult to expect the petitioner Management to pay the back wages for the period during which his workman was not working and who was in the habit of remaining absent frequently.

6. In view of the above stated reasons, the order of the Labour Court is modified to the effect that the petitioner shall reinstate the respondent into service however without back wages from the date of termination till the date of award and continuity of services with all other attendant benefits, within a period of two weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed. No costs. Connected miscellaneous petitions are closed.

29.08.2024

Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

bkn



W.P.No.19983 of 2020

To:

WEB COPY

1. The Presiding Officer,
Labour Court, Salem.



WEB COPY



W.P.No.19983 of 2020

R.N.MANJULA, J.

bkn

W.P.No.19983 of 2020

29.08.2024