



W.P.No.26665 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.No.26665 of 2019**

T.Rajamani  
S/o.Thangaiyan Nadar

...Petitioner

Vs

The Management  
Amaravathi Co-operative Sugar Mills Ltd.,  
Krishnapuram  
Udumalpet Taluk  
Tirupur District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the final award dated 28.02.2019 passed by the learned Additional Labour Court Judge, Coimbatore in I.D.No.43 of 2013 and quash the same in respect of the direction to the respondent to pay a compensation of a sum of Rs.4,50,000/- to the petitioner, towards full and final settlement including gratuity, in lieu of all the relief claimed in the claim petition and consequential direction to the respondent to pay enhanced compensation of Rs.19,23,000/- to the petitioner towards full and final settlement including gratuity in lieu of all the relief claimed in



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the petition.

For Petitioner : Ms.R.Meenakshi  
For Respondent : Mr.Anand Gopalan

### **ORDER**

This writ petition is filed challenging the award of the Labour Court dated 28.02.2019 in ID No.43 of 2013.

2. The brief factual background in which this writ petition arises is that the petitioner / workman being an exserviceman joined the services of the respondent management with effect from 05.09.1987 and he was functioning as the Security. While so, he was arrested by the police and released on bail in connection with Crime No.1066 of 2011 by the Sub Inspector of Police, Madathukulam Police Station. He was also released on bail on the same day. The allegation against the petitioner is that he had supplied the rectified spirit from the distillery for the purpose of consumption of PW1 Poosamy in the said criminal case, who after consuming the same became sick and was admitted into the hospital and upon the information received from the hospital, the first information report was recorded. Thereafter, investigation was completed and chargesheet was laid which was taken on file as S.CNo.236 of 2013 for



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offence under Section 4(1)(a) the Tamil Nadu Prohibition Act, 1937. In the course of trial, the said Poosamy became hostile and he said that the police had only obtained his singature in blank papers. Similarly, PW2 and PW3, who are the Mahazar witnesses also turned hostile. Trial was abandoned at that stage and further witnesses were not examined and upon examination of the Investigation Officer, the petitioner was acquitted. Parallely, the charge was laid against the petitioner and domestic enquiry was conducted. Even in the Domestic Enquiry report, no concrete evidence was there against the petitioner. The finding was returned on the strength of the deposition of one A.Subramanian that he was working as a chemist and the person Rajamani had enquired with him as to how to make the rectified spirit fit for human consumption. On the basis of the said enquiry made by the workman and coupled with the criminal case registered against the workman and coupled with the seizure of empty liquor bottles from his quarters, the charge was held to be proved and he was dismissed from service. Agrieved by the same, the workman raised a dispute. The conciliation could not end in resolution. Therefore, the claim statement was taken on file as ID No.43 of 2013. The claim was resisted by filing a counter. The Labour Court found that



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the domestic enquiry was not fair and proper. Thereafter, considered the evidence on merits and held that the charges levelled against the petitioner has not proved. While coming to the relief that to be granted, the Labour Court found that this is a case, where compensation in lieu of reinstatement with back wages can be ordered. Accordingly, the service particulars were taken into account by the Labour Court and it was calculated that the gratuity amount will come for Rs.2,22,750/-, adding an equal sum, a total compensation of Rs.4,50,000/- was granted. Thereby, the workman is before this Court.

3. The learned counsel appearing on behalf of the petitioner would further submit that the Labour Court in the first instance, ought to have ordered reinstatement with back wages. He would submit the salary slip in respect of the other identical workmen, who were working in the year 2019 whereby he was receiving Rs.19,461/- as the wages. Had the workman been in service he would have received such kind of wages and even more, considering the long number of years put in by the workman. The workman is due to retire only on 30.07.2020. Therefore, the Labour Court ought to have ordered reinstatement with full back wages. Even otherwise, the quantum of compensation ought not to be that low. When



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the employee has put in service from 1987 up to 2012, the same ought to have been taken into account by the Labour Court. This is a case, where the workman has been victimised for no fault on him. Therefore, this Court should at least enhance the compensation.

4. Per contra, learned counsel appearing on behalf the management would submit that the Labour Court was right in finding that this is a fit case for grant of compensation. In any event, the workman has also superannuated and after COVID, the Mill is also now not functioning. He would submit that the calculation of the compensation by the Labour Court is also fair.

5. I have considered the rival submission made on either side and perused the material available on records.

6. Firstly, this Court observes from the judgement of the Criminal Court that PW1 became sick by consuming the rectified spirit mixed content and the information actually came from the hospital. In that background, he has audaciously deposed that the police only took his signature in blank papers. Secondly, the investigating officer and the public prosecutor have not also done their duty by marking the hospital records, more specifically AR copy and the nature of treatment which is



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given to the PW1. As a matter of fact with said records, PW1 ought to have cross examined. The sham of trial was conducted and the petitioner is acquitted. Be that as it may, even in the enquiry report, there was no any concrete finding as to the guilt of the workman. Therefore, the Labour Court was right in holding that the non employment of the petitioner as illegal.

7. In the facts and circumstances of the case, this Court considers the following factors to determine whether or not the decision of the Labour Court to order compensation in lieu of reinstatement with back wages is in order.

(i) Firstly, it is brought to the notice that the Mill is not functioning;

(ii) Secondly, the petitioner's own case is that the bottles were recovered from him or IMFL bottles which are supplied to him through military canteen. In this case, it can be seen that the petitioner was born in the year 1962 and in the year 1987 itself, he has become an exserviceman and come to the employment of the respondent management and the incident happened in the



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year 2012. The same is also taken note of. Further, when in a distillery, if the rectified spirit goes out of the gate, there is also some overall responsibility on the security, who is standing at the gate.

8. All these factors are taken into account and I hold that the Labour Court is right in holding that instead of reinstatement with back wages, it is appropriate to order compensation. Considering the quantum of compensation, the Labour Court has calculated the amount by taking into consideration the period of service and also the amount that may be received by him as gratuity. Therefore, after adding the gratuity and roughly adding 100% of the said amount as his service is totally 33 years by taking into account till the date of retirement, the compensation is calculated. No exception whatsoever can be taken for the said calculation. Even considering the dictum of Honourable Supreme Court of India in ***O.P. Bhandari Vs. Indian Tourism Development Corporation Ltd., and others reported in (1986) 4 SCC 337 : AIR 1987 SC 111***, and the subsequent judgements, calculation is fair and proper. However, it can be seen that the said award was passed in the year 2019 and though it is stated on behalf of the respondent management that they



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have even written a letter on 26.04.2019 requesting the workman to collect the award, when the workman has filed the writ petition before this Court, it cannot be said that he committed a mistake in not receiving the award amount. In any event, the money was in the account of the respondent management and earning the interest.

9. Therefore, considering the subsequent efflux of time, I am of the view that the compensation shall be increased from Rs.4,50,000/- to Rs.5,25,000/- considering the interest component and the decreased value which the amount may now have in the year 2024. In view thereof, this Writ Petition is disposed of in the following terms.

(i) Award of the Labour Court dated 28.02.2019 made in I.D.No.43 of 2013 is upheld inasmuch as it holds that the non-employment of the workman as unjustified and it decides that compensation in lieu of reinstatement can be ordered;

(ii) As far as the quantum of compensation is concerned, the same is modified and is enhanced to Rs.5,25,000/-;



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(iii) The said amount of compensation shall be paid within a period of 8 weeks from the date of production / receipt of the website uploaded copy of this order without waiting for the certified copy of the order;

(iv) If the amount is not paid within 8 weeks thereafter, the amount shall carry a further interest of 9% per annum from the date of realisation.

There shall be no order as to costs.

**21.12.2024**

Neutral Citation : Yes

*mk*

To

The Management  
Amaravathi Co-operative Sugar Mills Ltd.,  
Krishnapuram  
Udumalpet Taluk  
Tirupur District.



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**D.BHARATHA CHAKRAVARTHY.J.,**

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