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W.A.No.98 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

**THE HONONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONONOURABLE MR. JUSTICE P.DHANABAL**

**W.A.No.98 of 2022
and
C.M.P.No.844 of 2022**

The Management,
St.John's English School and
Junior College, 2nd Cross Street,
Besant Nagar,
Chennai - 600 090

... Appellant

Vs.

1. Subramaniyan,
S/o Kanniyappan

2. The Presiding Officer,
II Additional Labour Court,
Chennai.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the
order passed by this Court in W.P.No.8499 of 2014 dated 17.09.2021.

For Appellant : Mr.P.Ebenezer Paul



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For Respondent : Mr.R.Thirumoorthy for R1
R2 - Court.

J U D G M E N T

(The judgment of the Court was delivered by J.Nisha Banu,J.)

This Writ Appeal has been filed by the School Management challenging the order passed by the learned single Judge of this Court in W.P.No.8499 of 2014 dated 17.09.2021, by which, the compensation awarded by the Labour Court was enhanced, by awarding a sum of Rs.6,00,000/-, over and above the compensation awarded by the Labour Court i.e., Rs.1,50,000/-. In toto, a sum of Rs.7,50,000/-, which includes gratuity and all other benefits due to the employee/1st respondent herein. The said amount was directed to be paid by the Management/ appellant herein within sixty days from the date of receipt of a copy of the said order, failing which, the said amount would fetch interest at 10% per annum from the date of the order.

2. The case of the appellant is that many complaints have been received by the appellant School Management as against the 1st respondent/ employee. The employee had committed serious misconduct. Therefore, having lost confidence on him, the Management dismissed him from service. However, the Labour Court generously awarded a



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compensation of Rs.1,50,000/- which need not be interfered with. Aggrieved over the same, the employee/1st respondent herein filed the writ petition, in which, the learned single Judge has enhanced the compensation and awarded a total sum of Rs.7,50,000/-. Aggrieved by the same, the Management has preferred the present appeal.

3. (i) Learned counsel for the appellant mainly contended that the award of the labour court can be interfered by High Court while exercising its jurisdiction under Article 226 of the Constitution of India only if the Labour Court acts without jurisdiction, violates the principles of natural justice and if its finding is perverse in law. The High Court cannot sit in appeal on factual findings and evidence of the Labour Court as held by the Hon'ble Apex Court in *Management of Maduratakam Co-op. Sugar Mills Ltd. vs. S.Viswanathan* reported in 2005 (3) SCC 193.

(ii) Learned counsel for the appellant would further contend that the Hon'ble Supreme Court has held that the enhancement of compensation equivalent of full back wages cannot be a natural consequence as it goes contrary to the principles of law as laid down by this Court and the Hon'ble Supreme Court.

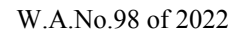


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(iii) Learned counsel for the appellant would further submit that computation of compensation for workmen involves substantial questions of facts which can only be decided by statutory authorities under the Industrial Disputes Act, 1947, depending on the facts and circumstances of each case and not by Writ Court. Therefore, the enhancement of compensation awarded by the learned single Judge is unsustainable in law.

4.(i) Per contra, the learned counsel for the 1st respondent/employee would state that the 1st respondent worked in the appellant School for nearly 27 years with unblemished record of service. However, the appellant Management verbally terminated him from service on 09.06.2009 without issuing any charge memo or conducting any enquiry. Hence, he raised Industrial Dispute before the Labour Court and the Labour Court in I.D.No.472 of 2010 awarded a sum of Rs.1,50,000/-, instead of reinstatement with backwages. In fact, the Labour Court concurred with the employee's contention, but denied the reinstatement with backwages to the employee, stating that reinstatement is not possible at this distant point of time and that the Management has



7. The workman preferred the writ petition as the amount of compensation awarded by the Labour Court in lieu of reinstatement into service is meager and this Court, while exercising its discretion, enhanced the compensation awarded by the Labour Court.



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8. On perusal of the order passed by the learned single Judge, it is seen that the learned Judge has observed that when the charges against the employee are not at all established, the conclusion arrived at by the Labour Court that the Management has lost confidence on the employee may not be correct. The learned Judge has further observed that the right of reinstatement can be deprived only if the charges against the employee are established based on a full-fledged enquiry.

9. The conclusion of the Labour Court is that the allegations against the employee are false as no proper oral and documentary evidence are marked on the side of the Management to prove the charges against the employee. Further, the learned single Judge in paragraph No.11 of the order dated 17.09.2021 has observed as follows:

"Since the petitioner/employee has attained the age of superannuation and reinstatement is not possible now, only monetary benefits have to be extended to him. Assuming that, the employee is not extended monetary benefits, he has to approach the Labour court for computation of compensation under Section 33(c)(2) of the Industrial Disputes Act and for recovery of amount



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invoking Section 33(c)(1) read with Section 11-B of the Industrial disputes Act, 1947 and also to prosecute the Management under Section 29 of the Industrial Disputes Act, which will give rise to further round of litigation."

10. From the above, it is seen that the learned single Judge has explained in detail as to why he was enhancing compensation awarded by the Labour Court, instead of reinstatement.

11. It is to be noted that the order of termination was passed by the Management on 02.06.2009. The workman raised industrial dispute in I.D.No.472 of 2010 on 17.07.2010 and the award was passed by the Labour Court on 05.12.2013. Immediately, within three months, the workman preferred the writ petition in W.P.No.8499/2014 on 18.03.2014. The order was passed by the learned single Judge in the said writ petition on 17.09.2021 and the present writ appeal was filed on 02.12.2021. In matters of this nature, a humane and pragmatic approach to the various factors, including the steep escalation in prices and the cost of living etc. have to be taken into account and the learned single Judge has rightly done so.



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12. It may be noticed that the award granting compensation to the extent of Rs.1,50,000/- was passed by the Labour Court in the year 2013 which was challenged in the writ petition and the matter remained pending in the Court till the order was passed on 17.09.2021. The value of the rupee had admittedly decreased for nearly a decade when the writ petition remained pending and the respondent workman can be presumed to have been subjected to miseries and agony on account of non-payment of the amount of compensation. Thus, the enhanced compensation of Rs.6,00,000/-, totally Rs.7,50,000/- awarded to the workman by the learned single Judge of this Court, is neither excessive nor unreasonable. Therefore, we are satisfied that the learned Single Judge was justified in enhancing the amount of compensation from Rs.1,50,000/- to Rs. 7,50,000/-, with which, we find no infirmity or illegality to interfere with.

13. In view of the above, the Writ Appeal stands dismissed confirming the order of the learned Single Judge. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

(J.N.B,J.) (P.D.B., J.)
12.04.2024



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Internet : Yes

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To

The Presiding Officer,
II Additional Labour Court,
Chennai.

J. NISHA BANU, J.
and
P.DHANABAL, J.

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