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W.P.No.11352 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.11352 of 2019
and
W.M.P.No.12748 of 2019

K. Soundararajan

...Petitioner

Vs.

1. The Joint Secretary
Central Board of Secondary Education,
Plot No.1630A 'J' Block
Chennai – 600 040.
2. Union of India
Rep by its Secretary to Govt,
The Central Board of Secondary Education,
Govt of India,
New Delhi – 110001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the record of the award passed by the Presiding Officer Central Govt. Industrial Tribunal cum Labour Court, Chennai dated 27.07.2016 in I.D.No.3 of 2007 and quash that portion of the award namely. “In the circumstances I find that it is a fit case where compensation rather than reinstatement is the proper relief considering



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the facts, I fix the compensation payable to the petitioner is Rs.2 lacs. For the reasons the respondent is directed to pay Rs.2 lakhs as compensation to the petitioner within a month of publication of the award. If payment is not made within the time it would carry interest @ 7.5% p.a from the date of the order and direct the respondents to pay the terminal benefits of pension gratuity etc., to the petitioner for the period of his service from 1994 on the basic pay of Rs.750DA 855HRA 225 CCA 90 with the revision of the said scale.

For Petitioner : M/s.K.Shanmugakani

For Respondents : M/s.G.Nagarajan

ORDER

The Writ petition is filed challenging the award passed by the Labour Court in I.D.No.3 of 2007 dated 27.07.2016. The petitioner joined the services of the second respondent on 05.08.1991 as daily wage worker. The petitioner was terminated from service illegally without any enquiry and against the principles of natural justice on 31.01.1995.

2. According to the petitioner, six persons who joined along with the petitioner as daily wage workers were regularized. But, the petitioner alone was terminated illegally from service on 31.01.1995. The petitioner, therefore raised an industrial dispute against his non employment. As the dispute was not referred and adjudication declined, the petitioner filed W.P.No.3870 of



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2000 for a mandamus directing the Central Government to refer the said dispute. The writ petition was transferred to Lok Adalat and an award was passed on 09.12.2006 by the Lok Adalat, directing the Central Government to refer the dispute for adjudication.

3. On 08.01.2007, the dispute was referred to the Central Government Industrial Tribunal-cum-Labour Court (C.G.I.T), Chennai and the same was taken on file as I.D.No.03 of 2007. The C.G.I.T passed an exparte order on 15.04.2009 directing the respondent to reinstate the petitioner with back wages and all attendant benefits. The said award was challenged by the respondent before this Court in W.P.No.17555 of 2009. On 03.03.2010, this Court allowed the writ petition by setting aside the order of Labour Court and remanded the matter for fresh consideration.

4. Meanwhile, as the respondent refused to pay the back wages in pursuance of the award, the petitioner moved an application for 17B wages and the same was allowed. The management thereafter filed W.A.No.1888 of 2009 challenging the order passed for payment of 17B wages. The Writ Appeal was ordered on 17.03.2010 directing the respondent management to pay the wages of a sum of Rs.10,000/- to the petitioner.

5. Thereafter the I.D.No.3 of 2007 was taken up by Labour Court and



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the same was allowed on 27.04.2011 directing the respondent to reinstate the petitioner along with continuity of service and all attendant benefits without back wages. The respondent challenged the award passed by the Labour Court in I.D.No.3 of 2007 and filed W.P.No.17419 of 2011 before this Court. This Court was pleased to allow the writ petition vide order dated 03.02.2016, this Court set aside the award of the Labour Court and remanded the matter for fresh consideration. On remand, the Labour Court considered the matter afresh and passed the impugned award on 27.07.2016 directing the respondent to pay compensation of Rs.2,00,000/- in lieu of reinstatement.

6. Aggrieved by the order of the Labour Court, the petitioner has filed the present Writ Petition. The learned counsel for the petitioner submits that the petitioner joined the services of the respondent in the year 1991 and was terminated illegally. He challenged the termination order before the Labour Court and the Labour Court directed the reinstatement of the petitioner. The counsel submitted that the respondent deliberately protracted the proceedings till the petitioner attained the age of superannuation and so the Labour Court in the present award directed the respondent to pay compensation in lieu of reinstatement. It was because of the indifferent attitude of the respondent that the petitioner was denied the benefits of the earlier awards. The learned



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counsel therefore submitted that the Labour Court ought to have ordered reinstatement instead of compensation.

7. The learned counsel for the respondent submits that the petitioner worked only for three years before the long drawn litigation and therefore the Labour Court was justified in awarding compensation instead of reinstatement.

8. Heard both counsels and perused the materials available on record.

9. I find the Labour Court has considered the case on merits and on the basis of the evidence filed by both sides. The Labour Court on the basis of Ex.W-11, the attendance register for the year 1991-1992 filed by the petitioner found that the petitioner worked continuously for more than 240 days between September 1991 and June 1993. The Labour Court found that the Petitioner worked for more than 240 days in a calendar year and therefore held that the termination of the petitioner without following the procedure under Section 25F of the I.D Act was illegal and unsustainable. I find absolutely no infirmity or illegality in the finding of the Labour Court as it is based on proper appreciation of the evidence on record. The Labour Court declined relief of reinstatement as it is found that the petitioner had only few months of service left before his superannuation. The Labour Court considering that the petitioner had put in three (3) years of service before his termination awarded



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compensation of Rs.2,00,000/- in lieu of reinstatement.

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10. It is not disputed that the petitioner was about to attain the age of superannuation within few months of award and it is also undisputed that the petitioner worked for three years only before his termination from service. I therefore find that the Labour Court was justified in awarding compensation instead of reinstatement. Though I agree with Labour Court on awarding compensation instead of reinstatement, I do not agree on the quantum of compensation awarded by it.

11. It is seen that the petitioner worked for the respondent from 1991 to 1995. The petitioner was terminated illegally on 31.01.1995 and therefore he raised the dispute. Initially the dispute was not referred. Hence, the petitioner filed writ petition in W.P.No.3870 of 2000, only after that the dispute was referred by the Central Government on 08.01.2007. The petitioner filed Claim petition in I.D.No.03 of 2007 on 31.02.2007 and the respondent filed counter on 20.06.2007. On 15.04.2009, exparte award was passed against the respondent. The respondent management challenged the same in W.P.17555 of 2009 and this Court set aside the exparte award and remanded the matter to the Labour Court. During the pendency of the said Writ petition, the petitioner filed an application under section 17B for payment of back wages and the



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same was allowed. The respondent management filed W.A.No.1888 of 2009 challenging the 17B order and the writ appeal was disposed on 17.03.2010 directing the respondent to pay the petitioner a sum of Rs.10,000/-. On 27.04.2011, the Labour Court allowed the I.D which was again challenged by the respondent in W.P.No.17419 of 2011. On 03.02.2016, the writ petition was allowed and the matter was remanded once again to the Labour Court for fresh consideration. Thereafter the impugned order was passed on 27.07.2016 directing the respondent to pay the petitioner, a compensation of Rs.2,00,000/-

12. This is a typical case of a mighty elephant being pitted against a tiny ant. The respondent with all its money power and position entangled the petitioner in series of litigations. The result of which is that the petitioner ended up with a paltry compensation of Rs.2,00,000/- in lieu of reinstatement. The respondent is solely responsible for the piteous plight of the petitioner. In my view, therefore, to meet the ends of justice, it would be fair, just and proper to direct the respondent to pay further consolidated compensation of Rs.2,00,000/-.

13. In view of the above discussions, the writ petition is allowed by directing the respondent to pay a further consolidated sum of Rs.2,00,000/- to



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the petitioner within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.

14.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

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N.MALA,J.

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