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W.P.Nos.14268 and 14269 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.Nos.14268 and 14269 of 2012
and M.P.Nos.1 of 2012 and 1, 2, 3 of 2013**

Prayer in W.P.No.14268 of 2012

The Management of ABT Maruthi
(A Division of ABT Limited)
102, Mount Road,
Guindy,
Chennai-600 032.

... Petitioner

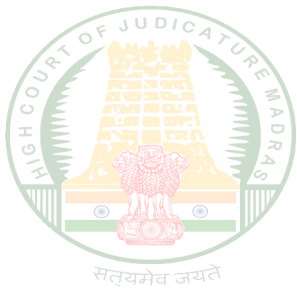
Vs.

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

2.K.Arivel

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in I.D.No.218 of 2004 and quash its award dated 07.10.2011 insofar as it grants relief of reinstatement and grant of 50% backwages to the second respondent.



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W.P.Nos.14268 and 14269 of 2012

For Petitioner : Mr.P.Raghupathan
for M/s.T.S.Gopalan and Co

For Respondents : R1-Court
Mr.K.V.Ananthakrishnan for R2

Prayer in W.P.No.14269 of 2012

The Management of ABT Maruthi
(A Division of ABT Limited)
102, Mount Road,
Guindy,
Chennai-600 032.

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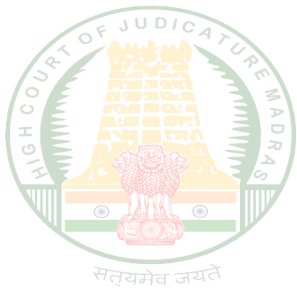
Vs.

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

2.K.Arivel

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in I.D.No.218 of 2004 and quash its preliminary order dated 15.10.2010.



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W.P.Nos.14268 and 14269 of 2012

For Petitioner : Mr.P.Raghupathan
for M/s.T.S.Gopalan and Co

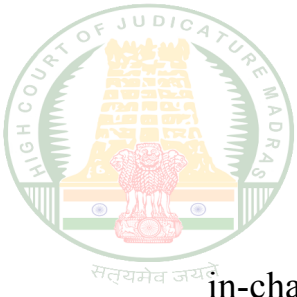
For Respondents : R1-Court
Mr.K.V.Ananthakrishnan for R2

COMMON ORDER

The Management has filed these Writ Petitions challenging the preliminary order dated 15.10.2010 and the award dated 07.10.2011 passed by the I Additional Labour Court, Chennai, in I.D.No.218 of 2004. By the said award, the Labour Court has awarded reinstatement with 50% backwages to the workman.

2. For the sake of convenience and clarity, the petitioner in both the writ petitions is referred to as the Management and the second respondent is referred to as the workman.

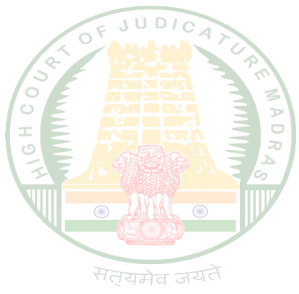
3. The facts required for disposal of these writ petitions is that the Management is an Automobile Dealer. The workman was working as yard



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in-charge, wherein, the valuable spare parts were stocked. He was involved in a delinquency wherein he had permitted the vehicles of some other automobile dealers into yard belonging to the Management. For the said delinquency, a show cause notice was issued and on obtaining the workman's reply which was not satisfactory, domestic enquiry was conducted. On the charges being proved, the workman was terminated on 11.12.2003. Challenging the termination, the second respondent filed I.D.No.218 of 2004. By a preliminary order dated 15.10.2010, the Labour Court has decided that the domestic enquiry was not conducted in a proper manne and therefore, set aside the domestic enquiry report and adjourned the case for cross-examination. Challenging the same, W.P.No.14269 of 2012 has been filed. Thereafter, the award was passed on 07.10.2011, wherein, the Labour Court after going through the facts and circumstances of the case in oral and documentary evidence, came to a conclusion that the Management has not proved the delinquency on the part of the employee and therefore, awarded reinstatement with 50% backwgaes. Challenging the said award, W.P.No.14268 of 2012 is filed.

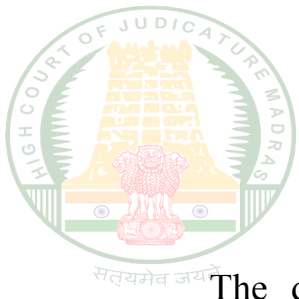


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4. Heard the learned counsel appearing for the Management who reiterated the averments made in the writ petition. The learned counsel appearing for the Management challenges the award mainly on the ground that the Labour Court has merely taken into consideration the evidence of the workman and M.W.1 and came to a conclusion that the charges levelled against the workman was not established. That apart, the Labour Court has awarded 50% backwages, though it was not proved on the part of the employee that he was not gainfully employed during the interregnum. Therefore, the award is perverse and has to be interfered with by this Court.

5. Heard the learned counsel appearing for the workman who would submit that the conduct of the Management in terminating the workman itself shows that everything was not proved with domestic enquiry. He would further submit that the show cause notice was issued on 21.06.2003, for which, the employee submitted his reply on 23.06.2003. Domestic enquiry's report dated 30.10.2003 was holding the employee liable for delinquency and the show cause notice was issued on 22.11.2003.



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The delinquent employee gave a reply on 24.11.2003 and the entire proceedings came to a conclusion on 11.12.2003 on which date, he was discharged from service. Therefore, the Labour Court was right in holding that everything was not proper with the disciplinary proceedings and therefore, the learned counsel appearing for the employee contended that the award passed by the Labour Court is justified and need not be interfered with.

6. This Court, after having gone through the award passed by the Labour Court, is of the view that though the delinquency alleged against the workman was proved by the domestic enquiry conducted by the Management, it was not sufficient to discharge the workman from service for such a delinquency. That apart, the Labour Court view that the domestic enquiry/disciplinary proceedings was conducted in a lackadaisical manner itself throws light on the manner on which the disciplinary proceedings was proceeded with. It is now brought to the notice of this Court that the workman was reinstated into service and is going to attain superannuation



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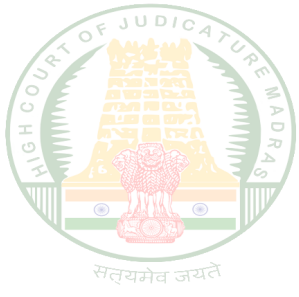
in the next few months. Therefore, the question of quashing the impugned award does not arise at this length of time. Now, in order to strike a balance between the parties, this Court is of the view that the Management can be directed to pay a sum of Rs.2,00,000/- to the workman. Accordingly, the Management is directed to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the workman within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, these Writ Petitions are disposed of. There shall be no order as to costs. Connected miscellaneous petitions are closed.

17.02.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To
The Presiding Officer,
I Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

ssb

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