



W.P.Nos.9814 & 25284 of 2010

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.9814 & 25284 of 2010

and

M.P.No.2 of 2010

W.P.No.9814 of 2010

The Management,
Rep. by its Special Officer,
The Tudiyalur Co-operative Agricultural Services,
Tudiyalur,
Coimbatore – 641 034.

... Petitioner

Vs.

1.The Labour Court,
Coimbatore.

2.M.P.Kandasamy

...Respondents

W.P.No.25284 of 2010

M.P.Kandasamy

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Coimbatore.



W.P.Nos.9814 & 25284 of 2010

2.The Management of Thudiyalur
Co-operative Agricultural Services Ltd.,
Coimbatore.

... Respondents

Prayer in W.P.No.9814 of 2010 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records and quash the impugned award passed by the 1st respondent in I.D.No.84 of 1998 on 28.10.2009 on the file of the Labour Court, Coimbatore.

Prayer in W.P.No.25284 of 2010 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pursuant to the award of the 1st respondent in I.D.No.84 of 1998 dated 28.10.2009, quash only that portion of the award denying backwages to the petitioner.

W.P.No.9814 of 2010

For Petitioner : Mr.P.K.Harinath Babu

For Respondents : Labour Court [R1]
Mr.G.B.Saravanabhavan [R2]

W.P.No.25284 of 2010

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Labour Court [R1]
Mr.P.K.Harinath Babu [R2]

COMMON ORDER



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Since the issue involved in both the writ petitions are interconnected, with the consent of the learned counsel appearing for the parties, these writ petitions were heard together and disposed of by way of this common order.

2. For brevity, the petitioner in W.P.No.9814 of 2010 is hereinafter referred to as management and the petitioner in W.P.No.25284 of 2010 is hereinafter referred to as workman.

3. The workman was employed under the management for more than 22 years. Since the TUCAS Employees Association did not perform well for the interests of the workers, the workman and other workers started a different union as a unit of Bharathiya Kovai Mavatta Podu Thozhilalar Sangam, which is affiliated to Bharathiya Mazdoor Sangh. The workman was the unit Secretary of the said union functioning under the management and the management took unfair labour activities as against the members of the union. Whiles, the management issued an order dated 31.07.1996 directing the workman to act as a second driver ignoring his seniority and he was directed to work as a cleaner in a lorry



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in the guise of directing him to act as a second driver. After signing the attendance register, he was available in the society, however, he was not given employment. In the attendance register, officials marked as “RW” as if the workman refused to attend work. On 28.09.1996, the management issued a show cause notice cum suspension order. After conducting enquiry, the workman was dismissed from service vide order dated 01.09.1997. As against the order of dismissal, the workman raised an industrial dispute in I.D.No.84 of 1998 on the file of the Labour Court, Coimbatore. After adjudication, the Labour Court passed an award dated 28.10.2009 directing the respondent to reinstate the workman with continuity of service but without back wages and other attendant benefits. Challenging the same, the management has filed the writ petition in W.P.No.9814 of 2010 and aggrieved by the denial of back wages and other attendant benefits, the workman has filed the writ petition in W.P.No.25284 of 2010.

4. Learned counsel for the workman submitted that even assuming that the workman did not act as a second driver as instructed by the



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management, however, for the said mis-conduct, the Labour Court denied back wages and other attendant benefits in favour of the workman, which is unsustainable and the same is liable to be interfered with. Accordingly, he prays for appropriate orders.

5. Per contra, learned counsel appearing for the management submitted that the workman was employed as driver in the management and he was directed to act as a second driver, however, he refused to report duty and refused to act as a second driver, thereby, the disciplinary proceedings were initiated, which was established before the Enquiry Officer as well before the Labour Court. Even thereafter, the Labour Court ordered for reinstatement, which is wholly unsustainable. Accordingly, he prays for appropriate orders.

6. Heard the learned counsel for the workman as well as the management and perused the materials available on record.

7. Admittedly, the workman was employed under the management



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for more than 22 years and for the alleged misconduct committed by him, he was dismissed from service, against which, he raised an industrial dispute in I.D.No.84 of 1998 on the file of the Labour Court, Coimbatore and the Labour Court set aside the order of dismissal and ordered for reinstated with continuity of service but without back wages and other attendant benefits. By considering all the oral and documentary evidence, the Labour Court held that the management conducted the enquiry in a fair and proper manner and the findings of the Enquiry Officer is not perverse. Further, the Labour Court also held that for the misconduct committed by the workman, the punishment of declining back wages and other attendant benefits is sufficient. Therefore, the Labour Court ordered for reinstatement with continuity of service without back wages and other attendant benefits, which cannot be said perverse, illegal or arbitrary. Hence, these writ petitions are liable to be set aside.

8. It appears that the workman reached the age of superannuation. Hence, the management is directed to settle the entire terminal benefits with continuity of service to the workman, within a period of eight weeks from the date of receipt of a copy of this order.



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9. Accordingly, these writ petitions are dismissed with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Labour Court, Coimbatore.



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M.DHANDAPANI, J.

sp

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