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W.P.No.25812 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25812 of 2015

P.Sarath Kumar

... Petitioner

Vs.

1.The Management of M/s.Hivelm Industries

2.The Presiding Officer
II Addl. Labour Court,
Chennai – 600 104.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus by calling for the records from the files of the second respondent in I.D.No.626 of 2005 and quash the impugned award made therein dated 08.04.2015 insofar as the second respondent has denied and rejected the claim of the petitioner for reinstatement in service, with continuity of service, with back wages and with all other attendant benefits.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for M/s.S.Apunu

For Respondents : Mr.M.R.Dharanichander for R1
R2 – Court



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus by calling for the records from the files of the second respondent in I.D.No.626 of 2005 and quash the impugned award dated 08.04.2015 insofar as the second respondent has denied and rejected the claim of the petitioner for reinstatement in service, with continuity of service, with back wages and with all other attendant benefits.

2.The case of the petitioner is that the petitioner joined the service of the first respondent Management as Electrician on 19.12.1988 and he took leading part in trade union activities and was an active member and office bearer of Hivelm Workers' Union. The first respondent Management declared lock out on and from 09.10.1998 and unilaterally lifted the lock out on and from 12.11.1998 and 34 workmen including the petitioner were not allowed to work and were denied employment on and from 09.10.1998, thereby they raised industrial disputes in I.D.Nos.117 to 149 and 156 of 1999 on the file of the First Additional Labour Court, Chennai and the Labour Court vide



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award dated 31.05.2001 directed the first respondent to reinstate the workmen in service with backwages, continuity of service and all other attendant benefits. Thereafter the petitioner was reinstated in service during the end of 2001. Thereafter, disciplinary proceedings was initiated against the petitioner and vide order dated 17.05.2005, he was imposed with the punishment of dismissal from service. Challenging the same, the petitioner raised industrial dispute in I.D.No.626 of 2005 and the second respondent dismissed the industrial dispute. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the first respondent industry itself was closed during the year 2017 and hence, now reinstatement is not possible and hence this Court may fix a reasonable compensation for the service rendered by the petitioner to the first respondent.

4.The learned counsel appearing for the first respondent on instructions, submitted that similarly situated persons were already settled and the first respondent is ready to pay a sum of Rs.1 Lakh in full quit to the petitioner.



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5.Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the first respondent and perused the materials available on record.

6.The facts of the case is not in dispute. The employer and employee relationship is not disputed. The petitioner was terminated from service on the ground that he did not behave properly. During the pendency of this writ petition, the first respondent industry itself was closed during the year 2017 and hence now reinstatement is not possible. Considering the service rendered by the petitioner to the first respondent, this Court is of the opinion that a sum of Rs.1.5 Lakhs would be a justifiable compensation to the petitioner.

7.The second respondent Management is directed to pay a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) in full quit to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order, failing which, the first respondent Management would be liable to pay interest at the rate of 7.5% p.a., from the date of writ petition till the date of actual payment.



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8.The writ petition is disposed of. No costs.

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

To

1.The Presiding Officer
II Addl. Labour Court,
Chennai – 600 104.



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M.DHANDAPANI,J.
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