



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.02.2025

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. Nos.8154 of 2011 and 21315 of 2012

M.Albert Bonpapa ... Petitioner in W.P. No.8154 of 2011

D.Jayakumar ... Petitioner in W.P.no.21315 of 2012

Versus

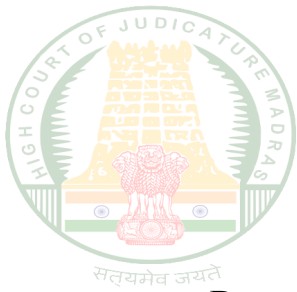
1.The Presiding Officer,
cum II Additional District Judge,
Labour Court, Puducherry.

2. The General Manager,
Hydraulics Private Limited,
Shock Absorber Division,
(Presently Known as Tenneco RC India
Private Limited)

B-83, 3rd Main Road, 12th Cross Street,
Pondicherry-9.

.... Respondents in both the W.P.s'

Prayer in W.P. No.8988 of 2011 : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records of the first respondent in relating to the common award dated 30.11.2010 passed in ID No.45 of 2005 and quash the same in respect of the award passed in ID. No.45 of 2005 on the file of the Labour Court, Puducherry, consequently direct the second respondent to reinstate the petitioner in service with backwage, continuity of service and all other attendant benefits.



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Prayer in W.P. No.2135 of 2012 : Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records of the first respondent in relating to the common award dated 30.11.2010 passed in ID No.39 of 2005 and quash the same in respect of the award passed in ID. No.39 of 2005 on the file of the Labour Court, Puducherry, consequently direct the second respondent to reinstate the petitioner in service with backwage, continuity of service and all other attendant benefits.

In Both the writ petitions

For Petitioner

: Mr. V.S.Sivasundaram

For Respondents

: R1 – Labour Court

Mr.S.Ravindran, Sr.C.

For M/s.S.Bazeer Ahamed R2

COMMON ORDER

Since the issues involved in both the writ petitions are one and the same, hence, they are disposed by way of common order.

2. Challenging the order dated 30.11.2010 passed by the file of the Labour Court, Puducherry, the present writ petition has been filed.

3. It is the case of the petitioners that the petitioners have joined in the second respondent company as a trainee in the year 1995 and 1996



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respectively and after completion of one year training, they were placed under probation on 01.08.1996 and 06.03.1997. On 11.08.1997 and 06.03.1998, the petitioners have promoted as permanent workers in the second respondent company. For revision of wages, the worker union had served strike notice and from 21.11.2001 resorted to legal strike as per the provisions of Industrial Disputes Act. The workmen went on strike, for which, the Management had approached the Labour Court and obtained an interim order. However, subsequently, the dispute was settled out of the Court. Thereafter, the petitioners were issued show cause notice as to tender explanation on the alleged act of violation of the injunction order of the Court. The petitioners had given a letter seeking time to tender their explanation. The management refused to grant time and passed an order of dismissal. Challenging the order of dismissal, the workmen raised industrial dispute before the Labour Court in ID. No.39 and 45 of 2005. The Labour Court vide order dated 30.11.2010 allowed the petitions in part by directing the respondent to pay compensation to the petitioners. The Labour Court has not ordered for reinstatement. Challenging the said order, the workmen have filed these writ petitions before this Court.

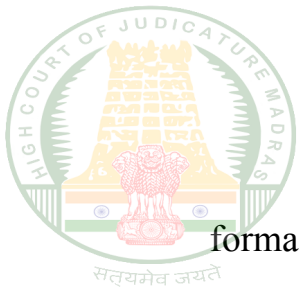
4. The learned counsel for the petitioners submitted that admittedly,



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the petitioners have not participated in the strike. With ulterior motive, the respondent passed an order of termination to the workmen. Though the petitioners have denied the charges, the respondent has not produced any witness to substantiate the charges levelled against them and no list of witness was furnished and no evidence was led by the Management to prove the charges. The second respondent has conducted enquiry an an empty formality and they had pre-determined to terminate the workmen which is clear cut of victimization for their union activity. Hence, this court may allow the petitions.

5. The learned counsel for the respondent submitted that admittedly, the petitioners were charge sheeted in respect of the misconduct by charge sheet dated 10.04.2002 for committing grave and serious misconduct by violating even the orders granted by the Additional Sub-Judge, Puducherry in IA. No.3500/2001 in O.S.No.462 of 2001 dated 23.11.2001. Further, FIR was registered against the petitioners on 21.11.2001. However, in his reply to the charge sheet, the petitioners had admitted the incidents and that of their presence during the incidents quoted in the charge sheet. The witness of the second respondent has also confirmed the presence of the petitioners. Now the petitioners have



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formally denied their participation. Considering the gravity of the offence and in particular the violation of the order of the Court, the Labour court rejected the reinstatement, which is perfectly in order and the same needs no interference.

6. Heard both sides and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the respective workmen joined as a Trainee in the second respondent Management and subsequently, they have promoted as permanent employee. In the year 2001, for revision of wages and other benefits, the petitioners and other workmen went on strike and prevented the other workmen. After conducting enquiry, the management has terminated the petitioners from service. The petitioners challenged the order of termination before the Labour Court. The Labour Court also rejected the reinstatement and ordered for compensation in view of the proven misconduct.

8. Considering the conduct of the petitioners, the second respondent lost confidence in the service of the petitioners. Under this situation, after lapse of 15 years, ordering reinstatement of the petitioners would not



arise and the compensation granted by the Labour Court to be enhanced.

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In order to strike out a balance between the parties, this Court is inclined to enhance the compensation from Rs.1,00,000/- to Rs.8,00,000/- each as full and final settlement along with 12% interest. The second respondent shall deposit compensation to the petitioners with 12% interest to the credit of ID No.45 of 2005 and 39 of 2005 on the file of the Labour Court, Puducherry within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the petitioners are entitled to withdraw the compensation.

9. With the aforesaid modification, these writ petitions are partly allowed. No costs.

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Index : Yes / No
Internet : Yes / No
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To
The Presiding Officer,
cum II Additional District Judge,
Labour Court, Puducherry.



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M. DHANDAPANI, J.

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