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W.P.No.29803 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29803 of 2015

And

M.P.Nos.1 and 2 of 2015

1.The Management of
Clariant Chemicals India Limited,
SIPCOT,
Cuddalore – 5.
Represented by its Manager – Personnel ... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.R.Manikandan ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records and quash the award dated 31.07.2015 in I.D.No.17 of 2014 of the first respondent.

For Petitioner : Mr.Meenakshisundaram
For Respondents : R1 – Court
M/s.V.Porkodi for R2

O R D E R



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The petitioners have filed this writ petition seeking issuance of

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Writ of Certiorari to call for the records and quash the award dated 31.07.2015 in I.D.No.17 of 2014 of the first respondent.

2.The learned counsel appearing for the petitioner submitted that the second respondent was engaged by the petitioner as trainee on 14.03.2011 for a period of 18 months and on completion of training, he was appointed as mazdoor in Grade W 9 with effect from 01.08.2012 and was put on probation from 01.08.2012 to 31.01.2013. Since the second respondent's performance was not satisfactory, his probation was extended for the period from 01.02.2013 to 30.04.2013 and was again extended from 30.04.2013 to 31.07.2013 and since his performance was not satisfactory, he was terminated from service on 31.07.2013. Aggrieved by the same, the second respondent raised industrial dispute in I.D.No.17 of 2014 before the first respondent and the first respondent passed the impuged order ordering that the second respondent is entitled for reinstatement in service with backwages and continuity in service.

3.The learned counsel appearing for the petitioner further



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submitted that during the pendency of this writ petition, the petitioner

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was forced to pay wages under Section 17-B of the Industrial Disputes Act to the second respondent and subsequently, the petitioner came to know that the second respondent was gainfully employed in some other agency and hence the petitioner filed W.M.P.No.9845 of 2017 before this Court and the said fact was established before this Court, pursuant to which, this Court vide order dated 26.07.2017, permitted the petitioner to stop payment of wages under Section 17-B of the Industrial Disputes Act and also observed that with regard to wages under Section 17 of the I.D.Act, which has already been paid to the second respondent, the same shall be retained by him, subject to the ultimate result of the writ petition.

4.The learned counsel appearing for the petitioner further submitted that unless the second respondent complete the probationary period to the entire satisfaction of the petitioner Management, he cannot seek permanency and the said issue was not properly adjudicated by the first respondent. Further the second respondent got appointment in some other agency and the same was established before this Court and hence order of reinstatement does



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not arise.

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5.Per contra, the learned counsel appearing for the second respondent submitted that along with the second respondent nearly 21 others were employed and all their services were regularized except the second respondent. The learned counsel further submitted that the second respondent is ready to resign the present job and to join the petitioner establishment without any backwages, however, the wages under Section 17 of the I.D.Act, which has already been paid to the second respondent may not be recovered from him.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.Admittedly, the second respondent was engaged by the petitioner as trainee on 14.03.2011 for a period of 18 months and on completion of training, he was appointed as mazdoor in Grade W 9 with effect from 01.08.2012 and since his performance was not satisfactory, he was terminated from service on 31.07.2013. Aggrieved by the same, the second respondent raised industrial dispute in I.D.No.17 of 2014 before the first respondent and the first



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respondent passed the impugned order ordering that the second respondent is entitled for reinstatement in service with backwages and continuity in service.

8.It is also admitted fact that after termination from the petitioner establishment, the second respondent was gainfully employed in some other agency and the same was established before this Court, pursuant to which, this Court permitted the petitioner to stop payment of wages under Section 17-B of the Industrial Disputes Act.

9.In view of the strained relationship between the petitioner and the second respondent, ordering reinstatement is not sustainable one. However, considering the service rendered by the second respondent to the petitioner Management, this Court is of the opinion that a sum of Rs.1 Lakh would be a justifiable compensation to the second respondent and the amount already paid to the second respondent need not be recovered.

10.The petitioner Management is directed to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) in full quit to the second



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respondent, within a period of four weeks from the date of receipt of a

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copy of this order, failing which, the petitioner 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. The amount already paid by the petitioner to the second respondent need not be recovered from the second respondent.

11.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

11.03.2025

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

To

1.The Presiding Officer,
Labour Court,
Cuddalore.



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M.DHANDAPANI,J.
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