



W.P.Nos.8453, 8454, 20443 & 20444 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.8453, 8454, 20443 & 20444 of 2014

W.P.Nos.8453 & 8454 of 2014:

B.Ebinazer ...Petitioner in W.P.No.8453 of 2014

A.Jeyakrishnan ...Petitioner in W.P.No.8454 of 2014

Vs.

1. The Management of Katary and Suttton Estate,
Selas, Katary Post,
Nilgiris District,
Conoor.

2. The Presiding Officer,
The Labour Court,
Coimbatore.

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

Common Prayer in W.P.Nos.8453 & 8454 of 2014: Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records on the file of the 2nd respondent relating to the common award dated 26.06.2013 in I.D.Nos. 314 & 315 of 2009 respectively, quash the same to the extent that the petitioners are denied backwages and consequently direct the respondent to grant backwages from the date of dismissal to till the date of actual reinstatement.



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In W.P.Nos.8453 & 8454 of 2014:

For Petitioner : M/s.Anna Mathew

For Respondents : Mr.S.Ravindran, Senior Counsel
for M/s.Bazeer Ahmed, for R1
R2 – Court

W.P.Nos.20443 & 20444 of 2014:

The Management of Katary and Sutton Estate,
Selas, Katary Post – 643 213
The Nilgiris District.

Represented by its Gilbert D'Souza

Vice President (HR & Administration)

...Petitioner in both W.P's.

Vs.

1. The Presiding Officer,
The Labour Court,
Coimbatore.

...1st Respondent in both W.P's.

2. B.Ebinazer

...2nd Respondent in W.P.No.20443 of 2014

3. A.Jeyakrishnan

...2nd Respondent in W.P.No.20444 of 2014

Common Prayer in W.P.No.20443 & 20444 of 2014: Petitions filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the 1st respondent in I.D.Nos.314 & 315 of 2009 respectively and quash the common award dated 26.6.2013.



W.P.Nos.8453, 8454, 20443 & 20444 of 2014

In W.P.Nos.20443 & 20444 of 2014:

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For Petitioner : Mr.S.Ravindran, Senior Counsel
for M/s.Bazeer Ahmed

For Respondents : R1 – Court
M/s.Anna Mathew, for R2

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. Challenging the common award passed by the Labour Court, Coimbatore in I.D.Nos.314 & 315 of 2009 dated 26.06.2013, the workmen have come up with W.P.Nos.8453 & 8454 of 2014 respectively and the management has come up with W.P.Nos.20443 & 20444 of 2014.

3. For brevity, the petitioners in W.P.Nos.8453 & 8454 of 2014 are hereinafter referred to as workmen and the petitioner in W.P.Nos.20443 & 20444 of 2014 is hereinafter referred to as management.

4. The short facts necessary for disposal of these Writ petitions are as follows:



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The workmen were trade union leaders. It is the case of the management that the workmen assaulted the Field officer on 01.08.2006 and used filthy language against him. The workmen have denied doing any misconduct or wrong doing. After the said incident, the management followed the procedures laid down under the Industrial Disputes Act like issuing show-cause notice, calling for explanation, appointment of Enquiry officer, issuing second show-cause notice and ultimately, on charges being proved, issuing dismissal orders. Aggrieved by the same, the workmen initiated conciliation proceedings before the Labour Officer and as the proceedings before the said officer ended in failure, the workmen raised disputes in I.D.Nos.314 & 315 of 2009 respectively before the Labour Court, Coimbatore. The management filed a counter-affidavit stating that the workmen have indulged in several misconducts in the past and that they have assaulted the Field Officer and prevented him from doing his duty. On the side of the workmen, the workmen examined themselves as witnesses and marked 25 documents. On the side of the management, the victim Field Officer was examined and through him, 11 documents were marked. On an analysis of both oral and documentary evidence, the Labour Court, vide impugned common award dated 26.06.2013 directed the management to reinstate the workmen into



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service with continuity of service and other attendant benefits but without back wages. Seeking back wages, W.P.Nos.8453 of 8454 of 2014 are filed by the workmen and seeking to quash the entire award, management has filed W.P.Nos.20443 & 20444 of 2014.

5. Learned Counsel for the workmen contended that having held that the enquiry was not conducted in a free and fair manner and having ordered for reinstatement with continuity of service, the Labour Court ought to have granted backwages also. However, the Labour Court has denied backwages only on the ground that the workmen have not proved that they were not gainfully employed during the period of their dismissal, which is wholly unsustainable, since the workmen have let in evidence and stated that they were unemployed after they were dismissed. Brushing aside the said statement, the Labour Court has held that the workmen have not substantiated their claim convincingly, which cannot be acceded to and the same has to be necessarily interfered with, since the burden lies upon the management to prove that the workmen were gainfully employed during their non-employment period and not on the workmen. Accordingly, he prayed for appropriate orders.



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6. Per contra, the learned counsel appearing on behalf of the management contended that the Labor court has grossly erred in even ordering reinstatement of the workmen, since the workmen were charged of assaulting the Field officer and using filthy language against him. The workmen were involved in series of misconduct and assault on the Field officer was the last straw for the management. Further, the management has followed the due process of law and the workmen were given sufficient opportunity to prove their innocence and the order of dismissal is completely justified and the Labour Court has erred in ordering the reinstatement of the Workmen. Therefore, the learned counsel prayed that the impugned common award may be set aside and the Writ petitions filed by the management be allowed.

7. Heard learned counsel on either side and perused the materials available on record.

8. As the issue as to whether the workmen would be entitled to backwages is a common point to be answered in these Writ petitions, all the Writ petitions are decided as hereunder, since pending writ petitions, the workmen were reinstated and subsequently some of the workmen



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have retired and some of them have resigned their job and thereby, the question of reinstatement does not arise.

9. The Labour Court has strangely fixed the burden on the workmen to prove that they were not gainfully employed during the period of their dismissal. Certainly, such a burden could not be fastened on the workmen to prove that they were not gainfully employed anywhere. Rather, the burden is on the employer to prove that the workmen were working and earning during their non-employment period. Hence, this Court has no hesitation to hold that though the Labour Court has given proper and cautious reasons for reinstating the workmen with continuity of service by considering the period of service rendered by the respective workmen, however, was not correct in fixing the burden on the workmen to prove their non employment during the period of their dismissal and to that extent, the order of the labour court has to necessarily be interfered with.

10. Considering the fact that, all the workmen have been reinstated and subsequently some of them have retired and some of them have resigned their job and also considering the issue involved and the



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passage of time from the date on which the workmen were dismissed from service, as about two decades have passed since the order of dismissal, this Court, in exercise of its powers, is inclined to direct the Management to pay 50% of the backwages in favour of the respective workmen by calculating the same from the date of their dismissal till the date of their reinstatement, within a period of four weeks from the date of receipt of a copy of this order, failing which, the said amount will carry interest at the rate of 6% per annum.

11. With the above modifications and directions, these Writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous petitions, if any, are closed.

20.02.2025
(1/2)

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NCC : Yes / No
Index : Yes / No
Speaking order : Yes / No

To:

The Presiding Officer,
The Labour Court,
Coimbatore.

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M.DHANDAPANI, J.

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