



W.P.Nos.32434, 32435, 32439 & 32440 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM

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

W.P.Nos.32434, 32435, 32439 & 32440 of 2018

and

WMP.Nos.37633, 37634, 37641 & 37643 of 2018

Kotagiri Medical Fellowship Trust,
Rep. by its Secretary Rickyraj Johnstone,
Kotagiri Medical Fellowship Hospital,
Kotagiri Post, Kotagiri Taluk,
Nilgiris District.

...Petitioner in all W.P's.

Vs.

Kamala Samson	...Respondent in W.P.No.32434 of 2018
Megala Narayanan	...Respondent in W.P.No.32435 of 2018
Shobana Kirubakaran	...Respondent in W.P.No.32439 of 2018
A.Kirubakaran	...Respondent in W.P.No.32440 of 2018

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the relevant records relating to the order passed by the Presiding Officer Additional Labour Court, Coimbatore in I.D.No.203, 201, 202 & 199 of 2010 all dated 24.07.2018 respectively and quash the same.



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In all W.P's.:

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For Petitioner : Mr.Thomas T.Jacob

For Respondent : Ms.Rita Chandrasekar,
for Ms.R.Gouri

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. These Writ petitions have been filed seeking quashment of the awards passed by the Presiding Officer Additional Labour Court, Coimbatore all dated 24.07.2018 in I.D.Nos.203, 201, 202 & 199 of 2010 respectively.

3. For brevity, the petitioner in all these Writ petitions are hereinafter referred to as the 'management' and the respondent in all these Writ petitions are hereinafter referred to as the 'workmen'.

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

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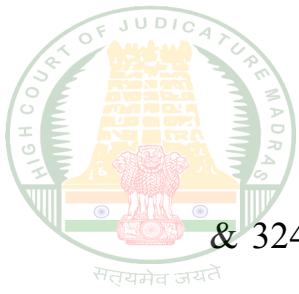


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It is the case of the management that the workmen herein are employees of the management and they are employed in various categories under the services of the management. Whiles, as the workmen herein committed several misconducts such as misappropriation of management fund, insubordination, not signing the attendance registers continuously for two (2) months and acted as against the interest of the management, the management initiated disciplinary proceedings as against the workmen and the same ended in their dismissal from service. Aggrieved by the same, the workmen raised industrial disputes in I.D.Nos.203, 201, 202 & 199 of 2010 respectively before the Additional Labour Court, Coimbatore and the Labour Court, vide its awards, all dated 24.07.2018, ordered reinstatement of the workmen with continuity of service and other attendant benefits along with 25% backwages. Challenging the same, the management has come up with these Writ petitions.

5. Learned counsel for the management submitted that, during the pendency of these Writ petitions, the workmen in W.P.Nos.32434 & 32440 of 2018 have reached the age of superannuation and thereby, they are not entitled for reinstatement and in respect of the workmen in W.P.No.32435



& 32439 of 2018, they are aged about 55 years and 57 years respectively.

However, as the charges against the said workmen is that they have collected bills and deposited the same in the different accounts maintained by the Medical Superintendent, which are serious in nature, reinstating them back to service will set a bad precedent. However, without considering any of the above said facts, the labour court though held that the enquiry was conducted in a fair and proper manner, however, held that the punishment of dismissal from service imposed on the workmen by the management for the above said misconducts is highly disproportionate and ordered reinstatement with continuity of service and other attendant benefits along with 25% backwages, which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the workmen submitted that the workmen herein have worked for a period of about 17, 20, 13 and 20 years respectively, which is about two decades under the services of the management and during their service period, except the above charge memos, no other charge memo was issued against the workmen herein. Further, for mere non-signing of attendance register,

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imposing the capital punishment of dismissal from service is wholly unsustainable. Further, there is no specific allegation as against the workmen with regard to the misappropriation of funds and it is stated that, they have collected the bills and credited to the accounts of the Medical superintendent. It is pertinent to note that, it is the Medical Superintendent who paid the salaries, purchased the life saving drugs and he also maintained proper accounts for the same. Admittedly, there was an internal dispute between the management and the Medical Superintendent and one group of people were supporting the elected trustee and other group of persons including the workmen herein are supporting the Medical Superintendent and subsequently, there was a compromise entered into between the elected trustee and the Medical superintendent and in fact, the Medical superintendent handed over the entire documents to the elected trustee. However, the persons who are under the obedience of the Medical Superintendent alone were victimised. Even if it is presumed without admitting that the above charges against the workmen were proved, imposing the capital punishment of dismissal from service is highly disproportionate and thereby, the labour court, after careful consideration of the above said facts and also the material documents placed before it held



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that the orders of dismissal passed against the workmen herein are highly disproportionate and thereby, ordered for reinstatement with continuity of service and other attendant benefits along with 25% backwages, which cannot be said to be erroneous. Accordingly, he prayed for dismissal of these Writ petitions.

7. This Court gave its careful consideration to the arguments advanced by the learned counsel on either side and perused the materials available on record.

8. It is an admitted fact that during the disputed period, a new Trustee was elected in the management Trust and his interference in the administration of the Hospital created misunderstanding between the trustees and medical superintendents of the Hospital. Due to the internal issues in the management of the hospital, the employees of the hospital were put to confusion, one group supporting the Trustees and the other group supporting the medical superintendent. The medical superintendent handed over all the money which were in their possession and further handed over all the bills, documents to the satisfaction of the Management and left the

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services on 01.07.2007. Subsequently, the Management initiated disciplinary proceedings against some of the employees including the workmen herein, which ended in their dismissal from service.

9. Though several charges were levelled against the individual workmen / respondents herein, the explanation given by the workmen have not been seriously denied or disputed by the Management before the Labour Court. The Labour Court, based on the factual background and the nature of charges, came to the conclusion that all the things had happened only due to the internal issues prevailed at the relevant time and the workmen herein/ the respective respondents were trapped into the charges as a measure of vindictiveness, even otherwise the charges are not so serious and grave enough to commensurate with the punishment of dismissal from service and ultimately set aside the dismissal orders as unjustified.

10. As regards reinstatement is concerned, on account of the fact that the workmen are ready and willing to resume employment in the hospital and more than a decade had passed from the date of the dismissal of the workmen and by this time, they would have reformed themselves by



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realising their mistakes and as such, the Labour Court held that the workmen herein are entitled for reinstatement with continuity of service and other attendant benefits and ordered for 25% backwages. This Court is in complete agreement with the said findings arrived at by the labour court and thereby, the same is confirmed.

11. However, in view of the fact that the workmen in W.P.Nos.32434 & 32440 of 2018 have already attained the age of superannuation, the question of reinstatement does not arise. Thereby, this Court, directs the management to settle the terminal benefits in favour of the said workmen within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the said workmen are entitled for continuity of service for the purpose of calculating the terminal benefits.

12. In respect of the workmen in W.P.No.32435 & 32439 of 2018, this Court directs the management to reinstate the workmen therein within a period of two weeks from the date of receipt of a copy of this order along with continuity of service and other attendant benefits.



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WEB COPY 13. The respective respondents/workmen herein are permitted to withdraw the 25% backwages deposited by the management before the labour court with accrued interest by way of making appropriate application.

14. For the reasons aforesaid, these Writ petitions stand dismissed. No costs. Consequently, the connected Miscellaneous petitions are closed.

02.04.2025

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

To:

The Presiding Officer,
Additional Labour Court,
Coimbatore.



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M.DHANDAPANI, J.

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