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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.10041 of 2021

and

W.M.P(MD)Nos.7750 of 2021 & 11243, 11244 & 11369 of 2025

The Management Sacred Heart Leprosy Centre,
Karaikal Road, Muthaiah Pillai Mandapam,
Sakottai Post, Kumbakonam Taluk, Thanjavur District,
Through its Director

...Petitioner/Petitioner

Vs

S.Munusamy

...Respondent/Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorari** to call for the records from the file of the Labour Court herein in relating to the Award passed by the Presiding Officer of the Labour Court, Kumbakonam, in I.D.No.13 of 2019, dated 23.01.2021, and to quash the same.

For Petitioner : Mr.C.Karthikeyan

For Respondent : Mr.M.R.S.Prabhu

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ORDER

The present Writ Petition has been filed by the Management challenging the award of the labour Court, Kumbakonam, in I.D.No.13 of 2019, wherein the order of oral termination has been set aside and a direction has been issued to the Management to reinstate the workman with continuity of service and backwages.

2.The respondent herein was initially appointed as a Shoemaker in the petitioner centre on 03.03.1986. He was made permanent on 03.05.1987. In view of the closure of the shoe making unit, the respondent herein was posted as a Watchman from 2010, onwards. These facts are not in dispute.

3.The respondent workman was on Medical leave between 12.06.2012 and 16.06.2012. According to the Management, he had remained absent from 18.06.2012. The Management has further submitted that a memo was issued to the workman to attend the duty on 12.02.2014. However, the workman has not chosen to attend the duty. The workman has approached the conciliation officer on 20.01.2015, seeking re-employment.



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4. During conciliation proceedings, the Management has submitted a memo in writing that they are ready to take the workman as a Watchman, since the shoe making unit was closed. However, this offer was not accepted by the workman and therefore, a failure report was forwarded.

5. The workman had filed I.D.No.13 of 2019, seeking reinstatement with backwages. The Labour Court has arrived at a specific finding that the termination of the workman is illegal and has passed orders of reinstatement with backwages. This award is put to challenge by the Management.

6. According to the learned Counsel appearing for the writ petitioner, the workman has abandoned his job and he has not attended duty from 18.06.2012, onwards. Even though, the Management has offered to take him back as a Watchman, he is not willing to join the duty. In such circumstances, the labour Court ought not to have directed to reinstate him with backwages. The learned Counsel appearing for the writ petitioner, on instructions, has submitted that the Management is ready to take him back as a Watchman, however, without any backwages.



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7.Per contra, the learned Counsel appearing for the respondent workman, has submitted that the petitioner was illegally terminated on 19.06.2012, and the offer to take him back as a Watchman came from the Management only on 20.01.2015. Since the workmen was illiterate and he was not able to note down the car numbers, he was not willing to take up the said job. In such circumstances, the award of the labour Court may be confirmed and the petitioner may be reinstated with backwages.

8.I have considered the submissions made on either side and perused the materials available on record.

9.It is not in dispute that Shoemaking unit of the petitioner Management was closed in May 2010 and the workmen was reappointed as a Watchman. The workman has worked as a Watchman for nearly a period of two years. Thereafter, without initiating any proceedings, the workman has been terminated from service. Though the Management has contended that the workman has abandoned his job, no records have been placed before the Court to establish that any disciplinary proceedings were initiated as against the workman for his



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unauthorised absence. Therefore, it is clear that the workman was terminated from 19.06.2012, without any enquiry. In view of the above said facts, this Court is not inclined to interfere with the order of reinstatement passed by the labour Court.

10.As far as the award of the labour Court relating to backwages are concerned, the learned Counsel appearing for the petitioner Management has submitted that though the Management had offered a Watchman post in the year 2015, it has not been accepted by the Workman. In such circumstances, the labour Court ought not to have awarded backwages. However, the learned Counsel appearing for the workman has pointed out that he was illegally terminated on 19.06.2012, but, offer of appointment as a Watchman came only on 20.01.2015. In such circumstances, atleast for the said period, backwages have to be paid. The Management has filed a written memo before the Conciliation Officer that they are ready to take him on 20.01.2015, agreeing to employ the workman as a Watchman. Since the workman has not accepted the same, he would not be entitled to any backwages after 20.01.2015.

11.In view of the above said deliberations, the order of the labour Court relating to reinstatement is hereby confirmed.



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12.As far as the award relating to continuity of service and backwages are concerned, the workman would be entitled to continuity of service and backwages till 20.01.2015. Thereafter, the petitioner would be entitled to continuity of service from the date of his joining of service. There shall not be any backwages after 20.01.2015.

13.It is represented before the Court that the entire backwages have been deposited before the labour Court pursuant to the interim orders of this Court. Out of the said amount, the workman would be entitled to withdraw a sum of Rs.1,97,532/-. The balance amount shall be refunded to the Management. The period between 20.01.2015, till the date of the re-appointment shall be treated as break in service.

14.With the above said deliberations, this Writ Petition stands Party Allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are also closed.

15.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The Presiding Officer,
Labour Court, Kumbakonam.

W.P.(MD)No.10041 of 2021

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