



W.P.(MD) No.17285 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On 05.03.2025	Orders Pronounced On 30.04.2025
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THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.17285 of 2018
and
W.M.P.(MD) No.15223 of 2018

General Secretary,
Indian Red Cross Society,
Mandiyath Road, Egmore,
Tamil Nadu Branch,
Chennai-600 008.

... Petitioner

Vs.

1.S.Anburaja

2.The Presiding Officer,
Labour Court, Madurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records on the file of the second respondent relating to the award dated 11.10.2017 passed in ID.No. 81/2015 and quash the same.



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For Petitioner : Mr.S.Abdulvahab
For Respondents : Mr.I.Suthakaran – for R1
: R2 – Labour Court

ORDER

This writ petition has been filed aggrieved by an order dated 11th October, 2017 in I.D.No.81 of 2015 on the file of the learned Labour Court, Madurai, whereby the learned Labour Court ordered for payment of compensation of Rs.2,00,000/- in lieu of reinstatement on the ground that there was no cordial relationship between the petitioner and the Respondent No.1.

2. This Court while entertaining the writ petition, passed an order of interim stay on condition of the petitioner depositing Rs.1,00,000/- to the credit of the industrial dispute. Accordingly, the petitioner is stated to have complied with the said condition.



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3.1. The brief facts that are relevant for the disposal of this writ petition are as under:

3.2. The Respondent No.1 herein was appointed as Driver by the petitioner on temporary basis on 11.10.2012 for a period of one year and the same was extended from time to time up to 28.02.2015. It was thereafter, the services of the Respondent No.1 were not extended. At that stage, the Respondent No.1 approached the Conciliation Officer by raising a dispute. Before the Conciliation Officer, the petitioner herein contended that there were several complaints against the Respondent No.1 and further, contended that there was no vacancy available in Virudhunagar District to continue the Respondent No.1 in service. However, the petitioner herein agreed to appoint the Respondent No.1 as Driver at its Chennai office. In view of the same, the Respondent No.1 herein claimed for payment of city allowance and bus pass and agreed to join in Chennai office, if the said benefits were extended to him.

3.3. According to the Respondent No.1, as the said two benefits viz., bus pass and city allowance were not extended to him, he has not



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joined at Chennai office. Under those circumstances, the petitioner herein claimed that the Respondent No.1 is not interested in joining in Chennai office and thus, he abandoned his service and therefore, the appointment order dated 30.04.2015 issued in favour of the Respondent No.1 appointing him in Chennai office was cancelled. It was thereafter, the Respondent No.1 herein raised a dispute before the learned Labour Court.

4. The learned Labour Court having examined the matter in detail, taking into consideration the evidence placed before it, came to the conclusion that there is no cordial relationship between the petitioner and the Respondent No.1 herein and therefore, the Respondent No.1 is not entitled for reinstatement and instead awarded a compensation of Rs.2,00,000/-.

5. In the affidavit filed in support of the writ petition and also as contended by the learned counsel for the petitioner, the Respondent No.1 was offered with the concessions *viz.*, bus pass and city allowance and in spite of the same, the Respondent No.1 failed to join in Chennai office and



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thereby abandoned his service resulting in cancellation of his appointment.

6. On the other hand, as seen from the impugned award, during the cross examination of the Respondent No.1, who was examined as W.W. 1, a suggestion was put to him to say that the Respondent No.1 has agreed to join in Chennai office provided he was extended the benefit of bus pass and city allowance. But in spite of a specific contention raised in the affidavit filed in support of the writ petition contending that the Respondent No.1 was offered the above said two benefits, no material is placed either before the learned Labour Court. There is no material placed before this Court as well in support of such contention. As it is specifically put to the Respondent No.1 during his cross examination that he has agreed to join in Chennai office on extending the two benefits referred to above, no material is placed before the learned Labour Court to show that the said benefits were extended/offered to the Respondent No.1 herein. Therefore, the petitioner herein cannot find fault with the Respondent No.1 for not joining in its Chennai office. Further, it is the specific case of the Respondent No.1 that there is vacancy available in Virudhunagar District itself. But, the



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petitioner posted him at Chennai.

7. Though it is contended by the petitioner that there are several complaints against the Respondent No.1, admittedly, no action has been taken against the Respondent No.1 on the alleged complaints received against the Respondent No.1 and no enquiry was conducted. Had the petitioner extended the two benefits claimed by the Respondent No.1, the Respondent No.1 might have joined in the petitioner's Chennai office. But, it is only the petitioner who failed to extend such benefits having agreed to extend the same. No doubt, Respondent No.1 failed to join duty at Chennai office, but there is some justification for the Respondent No.1 in refusing to join at Chennai in terms of the order dated 30.04.2015. The learned Labour Court taking into consideration all these aspects, came to the conclusion that the relationship between the petitioner and the Respondent No.1 is not cordial and therefore, the Respondent No.1 is not entitled for reinstatement. Under those circumstances, the learned Labour Court awarded a compensation of Rs.2,00,000/-.



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8. The learned Labour Court having come to the conclusion that the Respondent No.1 is not entitled for reinstatement, is justified in awarding the compensation in lieu of reinstatement. However, the learned Labour Court has not assigned any reason for awarding an amount of Rs. 2,00,000/- as compensation.

9. From the perusal of the material on record, it is noticed that the Respondent No.1 was appointed on consolidated pay of Rs.5,650/- with special allowance of Rs.2,678/- per month. That was in the year 2012. By the year 2015, when the petitioner was discontinued from service, the same would have been increased substantially. If the same is assumed as Rs.10,000/- per month as against Rs.8,328/- fixed in the year 2012, in the considered view of this Court, ten months pay should be the appropriate compensation for which the Respondent No.1 is entitled to, considering the fact that the employment of Respondent No.1 is purely on temporary basis and under a scheme.



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10. In the light of the above, this Court is of the considered view that the Respondent No.1 is entitled for compensation of Rs.1,00,000/- as against the compensation of Rs.2,00,000/- awarded by the learned Labour Court.

11. Accordingly, the impugned award shall stand modified restricting the compensation amount to Rs.1,00,000/- (One Lakh Rupees only) as against Rs.2,00,000/- awarded under the impugned award.

12. Accordingly, this Writ Petition is partly allowed. The Respondent No.1 is at liberty to withdraw the amount already deposited by the petitioner into the credit of the industrial dispute together with interest, if any, accrued thereon without furnishing any security. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.04.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes
ABR



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To

The Presiding Officer,
Labour Court, Madurai.



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MUMMINENI SUDHEER KUMAR, J.

ABR

Pre-delivery Order made in
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30.04.2025