

?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

%DATED: 16.11.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

+W.P.(MD)No.5671 of 2009

and

M.P.(MD)No.1 of 2009

#M/s.Subburaj

Spinning Mills Pvt., Ltd.,

represented by its Managing Director,

V.Subburaj ... Petitioner

Vs.

\$1.The Presiding Officer,

Labour Court, Tirunelveli.

2.K.Manikandan

3.T.N.Sundarajan

4.P.S.Murugan

5.L.Rathinakumar

6.M.Shankar

7.M.Isakki ...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for records relating to the common impugned award of the first respondent in his file I.D.No.3/99, I.D.No.4/99, I.D.No.5/99, I.D.No.6/99, I.D.No.32/99 and I.D.No.33/99 dated 30.04.2008 and quash the same.

!For Petitioner : Mr.G.Manivannan

^For R1 : Labour Court

For R2 to R7 : No appearance

:ORDER

The petitioner is a company engaged in textile business. The private respondents herein claimed that they should be reinstated with back wages as they were unjustifiably denied employment. A petition was filed by the private respondents under Section 2A of the Industrial Disputes Act, 1974.

The Labour Court, Tirunelveli, took cognizance of the same in I.D.Nos.3, 4, 5, 6, 32 and 33 of 1999. The management filed a detailed counter affidavit controverting the claim of the private respondents herein. According to the management some of the private respondents herein were engaged on a casual basis. It denied any relationship with the other respondents. The management examined one Muthusamy as its witness as R.W.1. Ex.R1 to Ex.R35 were marked on the side of the management as exhibits. Likewise, the private respondents examined themselves as W.W.1 to W.W.7. They also marked as many as 59 exhibits on their side.

2.The Labour Court after a detailed and elaborate consideration of the evidence on record, came to the conclusion that Section 25~F of the Industrial Disputes Act, 1947 is not attracted in the instant case. Because the workmen had not established that they had put 240 days of work continuously in a year.

3.The Hon-ble Supreme Court of India, in the decision reported in 2007(1) LLJ 882 in the case, between Director Vocational Education and Training and another and Nashim Shaikh Chand, held that if the claimant is not in a position to establish that he had worked for 240 days, then Section 25F of the Industrial Disputes Act, 1947 cannot be invoked by him.

4.Therefore, the Labour Court by an award dated 30.04.2008 rightly held that the private respondents herein are not entitled to be reinstated in service with backwages. After so holding, in the very same breath, the Labour Court proceeded to grant a lumpsum compensation of Rs.25,000 /~with interest to each of the private respondents herein. This awarding of lumpsum compensation in favour of the private respondents herein has necessitated filing of this present writ petition.

5.Heard the learned counsel for the petitioner.

6.This writ petition has to be allowed on a short and simple ground. The private respondents herein have not questioned the award passed by the Labour Court in the present case. Therefore, this Court must proceed on the footing that the finding of the Labour Court that the private respondents have not worked for 240 days continuously has become final. When the Labour Court chose to deny the relief of reinstatement in the service and backwages, it could not have awarded any compensation at all to the private respondents herein. For any Court to grant any relief to a litigant there must be a legal basis. Management and Governments can grant payments ex gratia. Courts cannot do so. It is not open to a Court of law to show generosity at the expense of the management.

7.Therefore, this Court comes to the conclusion that the relief granted in the present case runs contrary to findings rendered in the impugned order without any legal basis. Therefore, the common award impugned in this writ petition is quashed to the extent it awards lumpsum compensation to the private respondents herein.

8.Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

To

The Presiding Officer,  
Labour Court,  
Tirunelveli.