

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Review Application.163 of 2016
against
W.P.No.3226 of 2015

The Superintending Engineer,
Dharmapuri Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Dharmapuri-5.

.. Applicant

Vs

1.The Presiding Officer,
Labour Court, Salem.

2.T.Karuppannan

.. Respondents

PRAYER : Petition filed under Order 47 Rule 1, read with section 114 of CPC,
against the order dated 18.03.2016 in W.P.No.3226 of 2015.

For Applicant : Mr.Fakkir Mohideen

For Respondents : Mr.L.Chandrakumar for R2

ORDER

This Review Application has been filed by the Electricity Board to review the order and direction passed by this Court in W.P.No.3226 of 2015, dated 18.03.2016.

2. The said Writ Petition was filed by the Electricity Board challenging the Award passed by the Labour Court, Salem in I.D.No.7 of 2006, dated 03.08.2013. The respondent herein was employed in the services of the Board and by an order dated 23.05.2005, he was dismissed from service. The allegation being that he had impersonated one T.Karuppannan by producing false educational certificates, obtained the employment as helper in the services of the board. The correctness of this order was tested by the Labour Court and the Labour Court, by Award, dated 03.08.2013 set-aside the order of dismissal.

3. It is not in dispute that before the Labour Court both the parties have placed documentary evidence and considering the materials placed before the Labour Court, the Labour Court passed the Award of reinstatement with 30% backwages. This order was challenged by the Board before this Court in the said Writ Petition. Before this Court, the petitioner

raised the correctness of the propriety of the order of the Labour Court in pertaining to the charge of impersonation. This Court, after taking into consideration the submissions on either side and also taking note of as to what was the case of the Board, held that the Labour Court was perfectly justified in passing the Award, as the Board miserably failed to establish the charge before the Labour Court by producing oral and documentary evidence. Further, taking into consideration, the decision of the Hon'ble Supreme Court in the case of *Madurantakam Coop. Sugar Mills Ltd. V. S.Viswanathan* reported in **(2005) 3 SCC 193**, regarding the scope of interference under Article 226, this Court dismissed the Writ Petition.

4. The learned counsel for the petitioner seeks review the order passed in the Writ Petition only on one ground. That is by referring to two transfer certificates. It is submitted that the said Rajendran had forged his own certificate by incorporating the name of T.Karuppannan and obtained employment. Admittedly, these transfer certificates which are now produced before this Court in the typed-set of papers were not exhibited before the Labour Court. In the absence of these certificates being placed before the Labour Court, this Court cannot, while exercising review jurisdiction, review the order and direction issued in the Writ Petition by placing reliance on a document, which was not exhibited before the trial Court.

5. *Prima facie* this Court cannot record a finding of guilt on the respondent by examining the photostat copy of the documents filed in the typed-set of papers, as the Writ Petition was filed challenging an Award and the Award having been passed after the trial before the Labour Court. Any documents to be exhibited before a trial Court ought to be done in the manner known to law. Thus, this Court cannot exercise its review jurisdiction based on the contention advanced by the petitioner Board.

6. In the light of the above, the Review Petition stands dismissed.

01.12.2016

r n s

To

The Presiding Officer,
Labour Court, Salem.

T.S.SIVAGNANAM J.,

r n s

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