

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 01-02-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14800 OF 2013

The Manager,
DELVAC Pumps,
A,C,17/a, Sidco Industrial Estate,
Thirumudaivakkam,
Chennai-600 044.

.... Petitioner

-vs-

1.R.Dhandapani

2.The Presiding Officer,
Principal Labour Court,
Chennai.

... Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records of the award of the second respondent in I.D.No.610 of 2006, dated 7th November,2012, which was received on 15.05.2013, and quash the same.

For petitioner : Mr.S.V.Ramamurthy

For respondent 1 : Mr.R.Jaikumar,
for M/s.T.Fenn Walter Associates.

O R D E R

The challenge in this Writ Petition is to the Award passed by the second respondent Labour Court, in I.D.No.610 of 2006.

2. The first respondent-workman raised a dispute under Section 2-A (2) of the Industrial Disputes Act, 1947, in short, "the Act", claiming reinstatement in service, with continuity of service, backwages, and other attendant benefits. His case was, that he was working in the petitioner organisation for about ten years; one co-employee, by name, Achayalingam, fought with him and assaulted him, thereby he sustained injuries; he lodged a complaint to the petitioner management, but, no action was taken; therefore, he decided to resign from his job, and gave a resignation letter; however, the management, after receipt of his resignation letter, issued a show cause notice to him, with an ante-date of 12.01.2006; he gave a reply to the said show

cause notice; a domestic inquiry was conducted, in which, he was compelled to sign in certain papers; thereafter, there was no communication; and, ultimately, a second show cause notice was issued to him on 26.04.2006, proposing to dismiss him from service; for which also, he submitted a reply; and, without considering the same, he has been dismissed from service.

3. The petitioner-management resisted the claim of the petitioner, contending, that the respondent was working as an Accountant; in the absence of the Managing Director, he was not maintaining the accounts properly and, therefore, show cause notice was issued; and, ultimately, the respondent was terminated from service. It was also submitted, that domestic inquiry was conducted in proper manner, and, therefore, the award passed by the Labour Court is fully justified.

4. Heard the learned counsel for the parties and perused the materials placed on record. Before the Labour Court, the workman examined himself as W.W.1 and marked 21 documents viz., Exs.W-1 to W-21. On behalf of the management, one T.J.Balaraman was examined as M.W.1, and Exs.M-1 to M-5 were marked.

5. Based on the oral and documentary evidence, the Labour Court took up the matter for consideration, and framed two issues for trial, namely, (1) Whether the workman is entitled for reinstatement in service, with backwages, continuity of service and all other attendant benefits ?; and (2) To what relief, the workman is entitled ?

6. The Labour Court, after considering the oral and documentary evidence, pointed out that the minutes of the inquiry proceedings were not filed by the management, and it was necessary to peruse the minutes stage by stage to assess as to whether the inquiry was fairly and properly conducted; and that the further inquiry report was also not filed before the Court, which had deprived the workman of an opportunity. Thereupon, the Labour Court took up for consideration, the allegations regarding the altercations between the two employees; and pointed out, that M.W.1, Director of the company, himself admitted in his cross-examination, that when he saw the respondent/workman, there was blood oozing from his head. Taking note of Ex.W-3, Discharge Certificate, issued by ESI Hospital; and Ex.W-4, Treatment Certificate, issued by ESI Hospital, to prove the injuries sustained by the workman on the right year, the Labour Court had no hesitation to hold, that, it was the co-employee, namely, Achayalingam, who inflicted injuries on the respondent workman; and he behaved in a disorderly manner against the respondent workman; and, accordingly, it held, that all the charges levelled against the respondent were not proved. The Labour Court further held, that the Charge Memo itself was

vague, as none of the charges mentioned details, as to alleged date of acts of commission. Thus, the Labour Court concluded that only on receipt of resignation letter, the management issued the show cause notice, with an ante-date.

7. Since the award of the Labour Court having been passed after consideration of oral and documentary evidence, this Court, exercising its jurisdiction under Article 226 of the Constitution of India, will not examine the same, as if it is a second appellate Court. In the absence of any perversity in the approach of the Labour Court, the Award calls for no interference by this Court.

8. Writ Petition, therefore, fails, and is dismissed. No costs. Consequently, the connected M.P.Nos.1 and 2 of 2013 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
Principal Labour Court,
Chennai.

+1cc to Mr.S.V.Ramamurthy, Advocate, S.R.No.1985

+1cc to M/S.T.Fenn Walter Associates, Advocate, S.R.No.6662

W.P.No.14800 OF 2013

vgi (CO)
srg (15/02/2016)

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