

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2017

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Writ Petition No.19318 of 2003

M.Annadurai

... Petitioner

Vs.

1. The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai-1.

2. The Presiding Officer,
Central Government Industrial
Tribunal
cum Labour Court,
Shastri Bhavan, Chennai-6.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus to call for the records of the Hon'ble Central Government Industrial Tribunal - cum - Labour Court, Shasri Bavan, Chennai, the second respondent herein pertaining to the order made in I.D.No.553 of 2001 dated 12.12.2002 and quash the same and direct the Chairman, Chennai Port Trust, the first respondent herein to reinstate the petitioner as conservancy Mazdoor with all his back wages.

For Petitioner : Mr.A.M.Packianathan Easter

For Respondents : No appearance
for R1

ORDER

Annadurai, the petitioner herein was working as Mazdoor (conservancy) in the office of the Chief Engineer, Chennai Port Trust. Even according to him, he suffered from mental depression and he was on unauthorized absence from 3.7.1995 to 9.7.1997. According to him, he had taken treatment from local native Doctors upto 30.9.1995 and from 1.10.1995 to 10.8.1997, he is said to have taken allopathic treatment. When

he reported to duty on 11.8.1997, he was informed that the Port Trust had initiated disciplinary action against him for his unauthorized absence and that he was dismissed from service. He preferred an appeal to the Chairman, Port Trust, which was rejected on 10.6.1999. Thereafter, he raised industrial dispute and on the failure of conciliation proceedings, the Central Government referred the case to the Central Government Industrial Tribunal cum Labour Court in I.D.No.553 of 2001. Before the Labour Court, the following issue was framed:-

" Whether the action of the management of Chennai Port Trust, Chennai in terminating the services of the workman Sri M.Annadurai, Token No.2494 w.e.f. 3.7.95 is justified ? If not, to what relief is he entitled ?

Both sides did not examine any witnesses. But, however, on behalf of Annadurai, three documents were marked. After hearing both sides, the Labour Court dismissed the claim, challenging which, Annadurai is before this Court.

2. Heard Mr.A.M.Packianathan Easter, learned counsel appearing for the petitioner.

3. Learned counsel appearing for the petitioner submitted that the entire proceedings stand vitiated inasmuch as the management did not conduct proper enquiry and that by a mere exparte enquiry, the petitioner should not have been visited with such a serious penalty.

4. This Court gave its anxious consideration to the contentions.

5. Even according to the petitioner, he did not report to duty for over two years i.e., from 3.7.1995 to 9.7.1997 on the ground that he suffered from mental depression and was taking treatment locally. The Labour Court has agreed with the submission of the management that the petitioner was provided with accommodation by the Port Trust in the Staff quarters and the petitioner was also eligible for the best treatment in the Chennai Port Trust Hospital. Without availing of the facilities provided by the Port Trust, the contention of the petitioner that he was taking treatment locally sounds improbable. This Court is also of the view that the petitioner could have easily taken treatment in the Chennai Port Trust Hospital, which has the state of the art facilities and therefore, the contention of the petitioner that he was taking treatment for his illness locally does not contain merit. Admittedly, the management has sent notices to the petitioner calling upon him to report duty. Thereafter, they have conducted enquiry and the notice of

enquiry was also sent to his address in the Port Trust Staff Quarters. Since the notice was returned unserved, the management proceeded with by taking action against him and removed him from service by order dated 21.5.1996. The petitioner preferred an appeal after a lapse of three years on 10.6.1999, which was entertained by the management and of course, was rejected. Under such circumstances, it cannot be said that the petitioner was not given sufficient opportunity to put forth his case. Very recently, the Hon'ble Supreme Court in the case of Chennai Metropolitan Water Supply and Sewerage Board v. T.T.Murali Babu reported in (2014) 4 Supreme Court Cases 108, confirmed the order of dismissal from service for unauthorized absence of the employee therein for one year and seven months. The Hon'ble Supreme Court has also relied upon a passage from the earlier judgment in Government of India v. George Philip (2006) 13 SCC 1, which reads as follows:-

"18. In a case involving overstay of leave and absence from duty, granting six months' time to join duty amounts to not only giving premium to indiscipline but is wholly subversive of the work culture in the organisation. Article 51-A(j) of the Constitution lays down that it shall be the duty of every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement. This cannot be achieved unless the employees maintain discipline and devotion to duty. Courts should not pass such orders which instead of achieving the underlying spirit and objects of Part IV-A of the Constitution have the tendency to negate or destroy the same. "

In the light of the law laid down above, this Court is of the view that the order passed by the Labour Court cannot be said to be illegal warranting interference by this Court under Article 226 of the Constitution of India.

6. In the result, the writ petition is devoid of merits and the same is liable to be dismissed and accordingly, dismissed. No costs.

sd/-

Assistant Registrar

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sbi

Sub Assistant Registrar

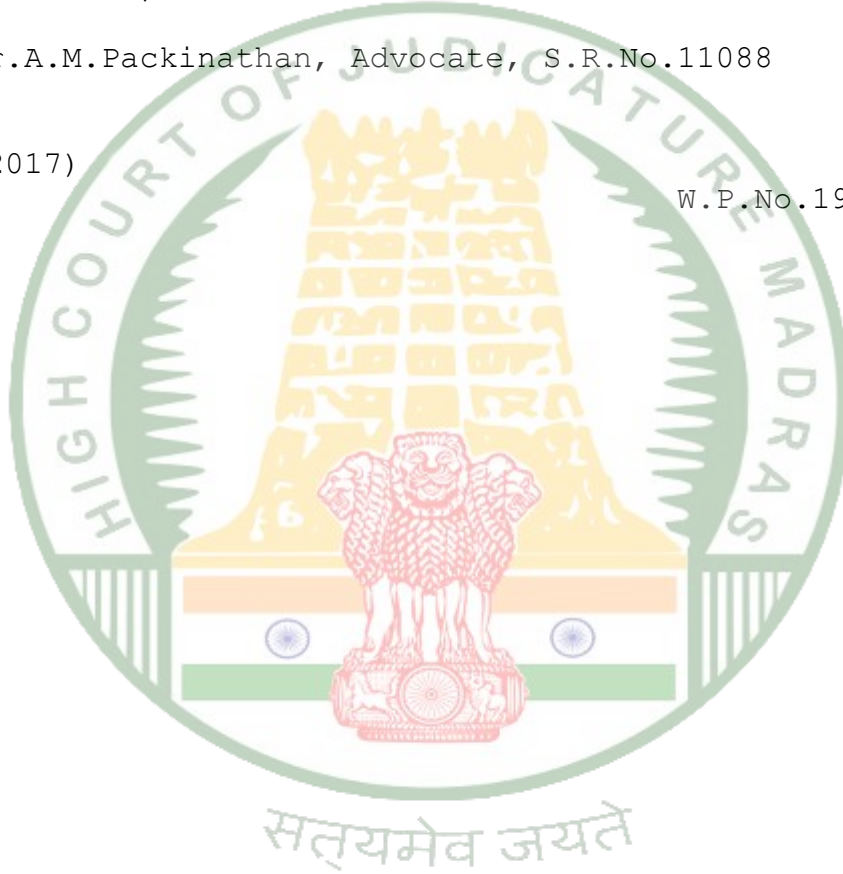
To

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2. The Presiding Officer,
Central Government Industrial
Tribunal
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Shastri Bhavan, Chennai-6.

+1cc to Mr.A.M.Packinathan, Advocate, S.R.No.11088

SAI (CO)
RS (09/03/2017)

W.P.No.19318 of 2003



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