



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

WEB COPY

Writ Petition (MD) No.12701 of 2011

P.Nagarajan

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Management of
S.Sattanatha Karaiyalar College
(Arts and Science),
Kodikurichi Post, Tenkasi,
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned award dated 17/08/2011 passed by the 1st respondent in I.D.No. 117/04 and quash the same as illegal.

For Petitioner

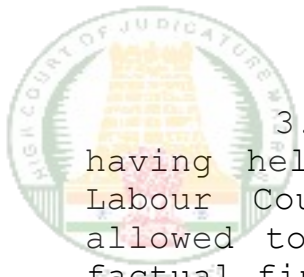
: Mr.Jerin Mathew for
Mr.M.E.IlangoFor 2nd Respondent

: Mr.M.P.Senthil

ORDER

The challenge in this writ petition is to award of the Labour Court. The petitioner was working as Lab Assistant with the respondent management. Alleging that on 23.04.2004, the second respondent had orally terminated the petitioner, the petitioner raised an industrial dispute and since the conciliation proceedings failed, I.D.No.117 of 2004 was taken up by the Labour Court, Tirunelveli. The Labour Court, after considering the rival pleadings as well as the evidence came to the conclusion that the claim of oral termination is not proved. On the said finding, the Labour Court dismissed the Industrial Dispute. Aggrieved by the same, the petitioner has come forward with this writ petition.

2.I have heard Mr.Jerin Mathew, learned counsel for the petitioner and Mr.M.P.Senthil learned counsel for the respondent



3. Learned counsel for the petitioner would contend that having held that the oral termination has not been proved the Labour Court should have seen that the petitioner was never allowed to work. He would also dispute the correctness of the factual findings of the Labour Court which are based on evidence.

4. Learned counsel for the respondent management would submit that the respondent management never terminated the services of the petitioner and even now, they are ready to allow the petitioner to work, if he chooses to join. However, he would seek liberty to conduct enquiry for the alleged misbehavior committed by the petitioner on 23.04.2004.

5. From the award of the Labour Court, it is clear that the Labour Court has assessed the evidence on record and has come to the factual conclusion that the claim of the petitioner that there was oral termination on 23.04.2004 has not been established. Therefore, the Labour Court was perfectly justified in dismissing the Industrial Dispute.

6. In view of the offer made by the learned counsel for the respondent management, there will be a direction to the respondent management to allow the petitioner to join duty on 20.03.2017. It will be open to the respondent management to conduct de nova enquiry regarding the alleged misconduct of the petitioner said to have taken place on 23.04.2004. Challenge to the award of the Labour Court fails and the writ petition is disposed of with the above direction. The respondent management shall also consider the claim of the petitioner to refix the salary taking note of the salary drawn by similarly situated persons. No costs.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub-Assistant Registrar

To

The Presiding Officer,
Labour Court,
Tirunelveli.

+One cc to Mr.M.E.Ilango, Advocate, SR.No.15391
+One cc to Mr.M.P.Senthil, Advocate, SR.No.14949
sms
RL/4C/2P/SKN/RSK/23.3.2017