

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2552 of 2018

V. Munusamy

.... Petitioner

vs

1. The Executive Engineer,
Mettur Power Distribution Circle,
Mettur Dam - 1

2. The Presiding Officer,
Labour Court,
Salem

.... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus to call for the records pertaining to the Order dated 07.12.2015 passed by the second respondent herein in I.D.No.36/2014 on the file of the second respondent and quash the same and further direct the first respondent to reinstate the petitioner together with back wages.

For Petitioner :: Mr.G. Mohanakrishnan

ORDER

The writ petition has been filed challenging the impugned Order passed in I.D.No.36/2014 dated 7.12.2015 in and by which, the Labour Court refused to interfere with the order of removal issued against the petitioner on the ground that the petitioner was a habitual absentee from duty.

2. The learned counsel for the petitioner, assailing the impugned order, submitted that the petitioner after availing leave from 03.03.2007 to 11.03.2007, suddenly was relieved from duty on 08.03.2007. Thereafter, he was reinstated into service on 12.03.2007. But he was issued with a show cause notice alleging that he was unauthorisedly absent from 20.01.2005 to 13.09.2005 for a period of 237 days and he was also punished for his unauthorised absence for ten times.

3.The petitioner submitted his detailed explanation disputing the show cause notice that he was not frequently availing leave and only because of compulsion, he went on leave.

4. This was not properly considered and finally an Enquiry Officer, finding him guilty, submitted his report. Accepting the report of the Enquiry Officer, a show cause notice was issued calling upon the petitioner to explain as to why the report of the Enquiry Officer should not be accepted.

5. Although the petitioner submitted his detailed explanation that he went on leave from 03.03.2007 to 11.03.2007 after availing proper leave, it was rejected and finally he was imposed with a punishment of removal from service.

6. Raising a dispute, the petitioner has approached the Assistant Labour Commissioner and a final order was passed on 27.02.2014 to raise an industrial dispute. The petitioner approached the Labour Court, the second respondent herein, which also accepting the stand taken by the respondents that he was punished for ten times for his unauthorised absence, refused to interfere with the impugned order. Therefore, the impugned order is liable to be interfered with.

7. This Court, hardly finds any merit. The reason being when the relief of the petitioner was refused by the Labour Court, Salem in I.D.No.36/2014 on 07.12.2015, the petitioner slept over for almost two years and thereafter, has come to this Court and no explanation whatsoever has been given.

8. Secondly, the finding given by the labour Court that the petitioner has not given any acceptable explanation for his unauthorised absence, for which, he should be rightly dismissed from service, cannot be found fault with.

9. Moreover, the labour Court has considered the past record of the petitioner, which shows that he was repeatedly punished for ten times for his unauthorised absence, based on which, the order of removal was confirmed.

10. This Court, sitting under Article 226 of the Constitution of India, is not inclined to entertain the writ petition, as the impugned order cannot be found fault with.

11. In the result, the writ petition is dismissed. No costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

To

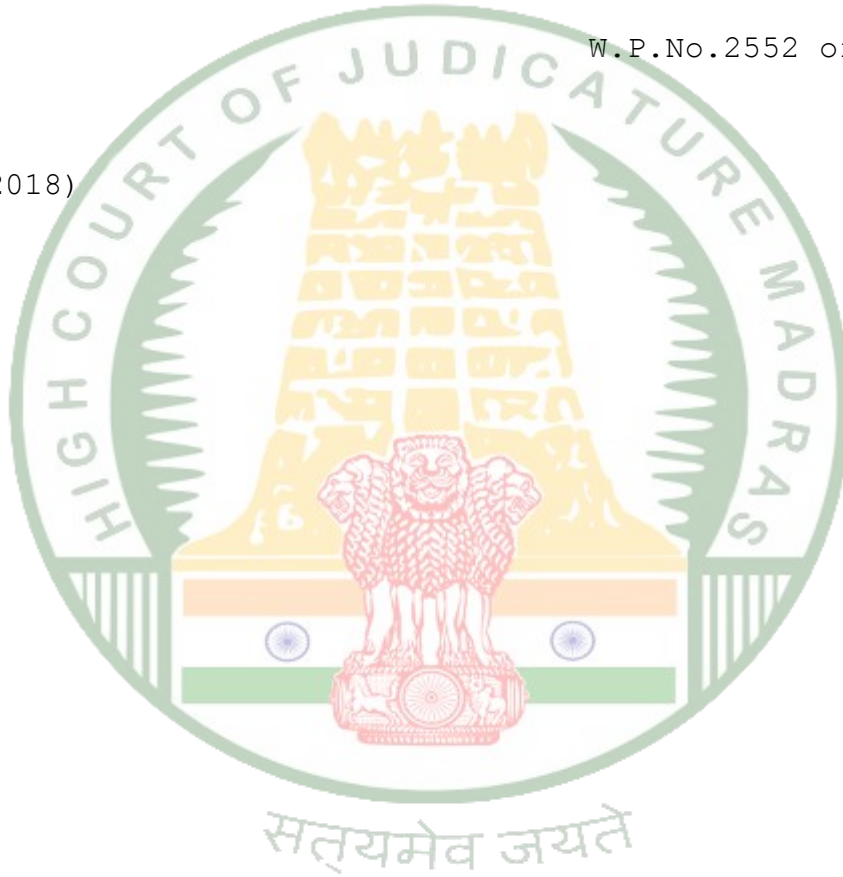
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Mettur Power Distribution Circle,
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Labour Court,
Salem

+ 1 cc to Mr.G. Mohanakrishnan, Advocate SR.9069

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(CS-DR)
EU(05/03/2018)



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