

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.11.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.16772 of 2011

M.Ganesh

..Petitioner

Vs.

1.The Management,
M/s.Christian Medical College & Hospital,
Ida Scudder Road,
Vellore - 9

2.The Presiding Officer,
Additional Labour Court,
Vellore District.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent made in I.D.No.230 of 2001 dated 11.10.2010 and quash the same and direct the 1st respondent to reinstate the petitioner in service with backwages and all other attendant benefits and allow the I.D.No.230 of 2001 as prayed for.

For Petitioner : Mr.P.Krishnan

For Respondent : Mr.Shiva Thanu Mohan
For M/s.S.Ramasubramaniam and
Associates
[For R1]

R2 - Labour Court

O R D E R

The Award dated 11.10.2010 passed in I.D.No.230 of 2001 is sought to be quashed in the present writ petition.

2. The petitioner states that he joined as a Junior Assistant-Accounts Cum Cashier on 27.09.1995 in the 1st respondent Management. During the year 1998 April, the writ petitioner was working in the Billing Section of the 1st respondent Hospital and under the supervision of Mr.S.Denzil.

The petitioner states that he had no role in operating the computer system in preparation of bills and that was allotted to him and under these circumstances, a charge memorandum was issued against him, alleging that the petitioner issued a fake receipt for a sum of Rs.30,000/- to a patient without collecting that money and with a view to favour that person. The charge sheet dated 10.06.1998 was served and the petitioner was placed under suspension with effect from 11.06.1998. He submitted his explanation to the charges and another charge memo was issued on 02.07.1998 with the very same allegations, which was similar to that of the previous allegations. Two set of charge memos were issued in respect of two different allegations and having not satisfied with the explanations submitted by the writ petitioner employee, the Management conducted the Domestic Enquiry. The Domestic Enquiry was conducted by affording opportunity to the writ petitioner and based on the findings of the Enquiry officer, the writ petitioner was terminated from service.

3. The learned counsel for the writ petitioner made a submission that the petitioner raised an Industrial Dispute, challenging the order of termination. The Labour Court dismissed the Industrial Dispute mainly on the ground that the charges were admitted and the father of the writ petitioner, who was also an employee of the same respondent Management, deposed that he paid the misappropriated money to the Management. Based on these admissions, the Labour Court rejected the Industrial Dispute.

4. The learned counsel for the writ petitioner states that the admission was made by way of coercion and the writ petitioner is innocent of the allegations. The statement of admission was made on account of the pressure on the part of the Management and therefore, the Labour Court has committed an error in admitting such admission made by the writ petitioner as well as his father. It is contended that the writ petitioner was not at all dealing with the computer entries and therefore, the very allegation itself is no way connected with the duties and responsibilities of the writ petitioner.

5. The father of the writ petitioner repaid the misappropriated amount to the Management and such a payment was made on account of the force by the Management and these aspects were not considered by the Labour Court.

6. The learned counsel appearing on behalf of the respondent Management disputed the contentions by stating that the writ petitioner has not established any such coercive or force by way of documents or proof. A mere statement made in this regard

cannot be relied upon. The Labour Court has repeatedly arrived a conclusion based on the admission of charges as well as considering the fact that the father of the writ petitioner himself voluntarily repaid the misappropriated amount to the Management. The other portion of the misappropriated amount was repaid by the writ petitioner himself and considering all these facts and circumstances, the Labour Court arrived a conclusion that the petitioner is not entitled for any relief.

7. In paragraph 13 of the Award, the Labour Court made a categorical finding, which is extracted hereunder:

"13. The charge memo issued by the respondent Management to the petitioner dated 2-5-98 was marked as Ex.M2. According to the charge when the petitioner was duty on 19-4-98 he fraudulently made an entry in the computer as if the advance amount of Rs.30,000/- was paid by the patient Mr.Mohammed Habibullah, Hospital No.560364 in order to help him and the petitioner along with the patient and indulged in such an activity to defraud the respondent institution. The petitioner submitted his explanation dated 4-5-98 to the management and the same was marked as Ex.M3. It is seen from this document that he admitted that he was on duty on 19-4-98 from 8-00 AM to 12-00 Noon and he had received receipt of Rs.30,000/- and altered in the ledger and he also stated in his explanation that he came to know that an amount of Rs.30,000/- was wrongly deducted by me. Hence he requested to excuse and do the needful. Furthermore he specifically stated in this explanation that he was responsible for wrong credit of Rs.30,000/- and the same was given by him. He also undertook the responsibilities of paying of Rs.30,000/-. So it is seen from this document that the petitioner admitted his mis conduct stating that he was voluntarily made the untrue entry in the computer adding Rs.30,000/- to the credit of Mr.Mohammed Habibullah and also undertook to pay the said amount. Consequently, on 6-5-98, the petitioner along with his relation came and paid the amount vide receipt No.1/98/1089 dated 6-5-98 was marked as Ex.M4. The copy of the receipt issued by the Management was also marked as Ex.M6."

8. The above findings of the Labour Court reveals that the amount misappropriated was repaid both by the writ petitioner and by his father. The charges were admitted. Under these circumstances, the Labour Court has rightly arrived a conclusion that the writ petitioner is not entitled for any relief. Perusal

of the entire Award reveals that the allegation of misappropriation was established in respect of the fairness of the enquiry. Though the Labour Court found that the enquiry was not conducted in a just and fair manner, the Labour Court examined the witnesses and considered the documents. When the Labour Court independently examined the witnesses with reference to the charges, then there is no reason to interfere with the findings of the Labour Court.

9. Under these circumstances, there is no perversity or infirmity in respect of the decision taken by the Labour Court based on the documents as well as the materials available on record. Thus, the writ petition is devoid of merits and consequently, the Award dated 11.10.2010 passed in I.D.No.230 of 2001 is confirmed and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Management,
M/s.Christian Medical College & Hospital,
Ida Scudder Road,
Vellore - 9

2.The Presiding Officer,
Additional Labour Court,
Vellore District.

+1cc to M/s.S.Ramasubramaniam and Associates, sr.94196

vba(co)
nr 27/12/2019