

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P.No.5514 of 2004

AR.Sivalingham

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Cuddalore.
2. The Management,
East Coast Enterprises,
3, Salt Road,
Nagapattinam.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records and quash the award dated 13.08.2003 passed by the 1st respondent in I.D.No.438 of 1992 and further direct the 2nd respondent to pay the backwages and all other benefit to the petitioner.

For Petitioner : Mr.L.Chandrakumar
for Mr.K.Saravanan
For Respondents : Mr.Anand Gopalan,
for M/s.T.S.Gopalan & Co., for R2
R1- Court

ORDER

This Writ Petition has been filed to call for the records and quash the award dated 13.08.2003 passed by the 1st respondent in I.D.No.438 of 1992 and further direct the 2nd respondent to pay the backwages and all other benefits to the petitioner.

2. Alleging that the petitioner herein was orally terminated by the second respondent Management on 13.03.1991, he raised a dispute before the Conciliation Officer, which ended in a failure. Subsequently, he raised a dispute before the Labour Court in I.D.No.438 of 1992

seeking reinstatement together with all attendant and service benefits, which came to be dismissed and which order is under challenge in the present Writ Petition.

3. Mr. Anand Gopalan, learned counsel appearing for the second respondent submitted that there was no oral termination as alleged by the petitioner herein. On the other hand, the petitioner herein had borrowed a sum of Rs.150/- from third party. When demanded for repayment of the amount, the petitioner herein requested the second respondent Management to pay the third party, and requested the amount to be treated as full and final settlement. Thereby, he had abandoned his service. As such, the learned counsel would submit that the Labour Court had rightly appreciated the evidence on record and had found that there was no oral termination and that the petitioner herein had left the service on his own accord.

4. On perusal of the award passed by the Labour Court, it is seen from the findings that the petitioner herein had not sought for money for his daughter's marriage, since he had not produced any proof of her wedding. It is also found in the award that the petitioner had not established that he was orally terminated through any proof. The second respondent herein had also produced two documents Exs.M20 and M22, which evidences that the loan amount taken by the petitioner was received by the third party and it was accepted by a receipt dated 14.03.1991. As such, the allegation that the petitioner had approached the second respondent seeking loan for his daughters marriage itself is baseless. The Labour Court had also taken into account the fact that the petitioner had left the service after having his account settled, which is evident from Exs.M20 and M22. As such, it cannot be said that the Labour Court had erred in passing the award by rejecting the petitioner's claim for reinstatement. Hence, it can be construed that the petitioner had voluntarily left the service of the second respondent after receiving his full and final settlement. Hence, I find no merit in the present Writ Petition. Accordingly, the same stands dismissed. No costs.

Sd/--

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

pvs

To
The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to M/s.T.S.Gopalan & Co.,,Advocate SR.No. 13522

W.P.No.5514 of 2004

A.SK(20/03/2019)



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