

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25241 of 2010

A.Anthoniammal

...Petitioner

..Vs..

1.The Management,

Cheshire Homes (India)

Rep by its Honorary Secretary,

Katpadi, Gandhi Nagar,

Vellore - 632 006.

2.The Presiding Officer,

Industrial Tribunal cum

Principal Labour Court,

Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the I.D.No.205 of 2000 dated 08.04.2009 on the file of the second respondent Tribunal and to quash the same.

For Petitioner : Mr.V.Parivallal

For Respondents : Mr.Anand Gopalan,
for M/s.T.S.Gopalan & Co.
(for first respondent)

R2- Court

ORDER

The award dated 08.04.2009 passed in I.D.No.205 of 2000 is sought to be quashed in the present writ petition.

2.The writ petitioner states that she is a retrenched worker from the designation of Typist cum clerk under the first respondent/Organization. The first respondent/Organization is a charitable organization running leprosy home and doing voluntary service for leprosy patients functioning under the name and style of "Cheshire Home" at Virudhampat, Vellore - 6.

3.The petitioner states that she was dismissed from service on account of certain allegations. Before instituting disciplinary proceedings, memos were issued to the writ petitioner stating that she should avoid committing such

misconducts of accommodating outsiders in her room allotted by the management. As per the terms and conditions, only the inmates are entitled to stay in the room allotted and they cannot permit the outsiders to stay inside the premises of the first respondent/Organization. Despite the fact that memos were issued to the writ petitioner, she continued committing misconducts, which resulted in framing of charges against the writ petitioner and seven charges were framed. The first respondent/ Organization conducted a domestic enquiry and based on the report of the Enquiry Officer, she was dismissed from service. The writ petitioner raised an industrial dispute in I.D.No.205 of 2000 and the Labour Court dismissed the industrial dispute on 08.04.2009. Challenging the same, the present writ petition is filed.

4.The contentions of the petitioner is that the punishment is shockingly disproportionate to the gravity of allegations and the Labour Court failed to consider these aspects sympathetically raised by the writ petitioner. The petitioner states that the length of service rendered by the writ petitioner was not considered by the Labour Court and the allegations are baseless and not supported with any documents. Even before issuing the order of termination, the petitioner was evicted from boarding and lodging from the premises of the first respondent/Organization and these aspects were not considered. The petitioner states that the domestic enquiry was conducted in an improper manner and an opportunity had not been provided to her.

5.Disputing the said grounds, the learned counsel appearing on behalf of the first respondent contended that the domestic enquiry was conducted in a fair and proper manner which was entrusted by the Labour Court. The fairness of the enquiry was not disputed and, therefore, the Labour Court had not conducted any separate trial and found that the charges against the writ petitioner were established. The Labour Court considered the fact that the misconducts proved are grave in nature and confirmed the order of dismissal mainly based on the proved charges Nos.3 to 7. The Labour Court in its findings held that the punishment imposed is not shockingly disproportionate so as to interfere. In respect of the said findings, the Labour Court cited the judgement in the case of Life Insurance Corporation of India Vs. R.Dhandapani reported in 2006(I) LLJ 329, wherein the Court has interpreted the discretionary power vested with the Labour Court under Section 117 of the Industrial Disputes Act. Considering all these aspects, the Labour Court arrived at a conclusion that the charges 3 to 7, which are grave in nature were proved beyond reasonable doubt and accordingly confirmed

the order of dismissal issued by the first respondent/Organization.

6.This Court is of an opinion that the order of Labour Court and its findings are candid and convincing. There is no perversity or infirmity so as to reverse the findings of the decision. These being the facts and circumstances of the case, the award dated 08.04.2009 passed in I.D.No.205 of 2009 is confirmed and the writ petition stands dismissed.

7.However, the first respondent/Organization is directed to co-operate with the settlement of statutory dues to be paid to the petitioner. The writ petitioner is at liberty to approach the first respondent/Organization for completing the formalities for the purpose of claiming the statutory benefits and in the event of submitting such application by the writ petitioner/workman, the authorities competent including the first respondent/Organization shall ensure that all such benefits are settled as expeditiously as possible.

8.Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Honorary Secretary,
Management,
Cheshire Homes (India)
Katpadi, Gandhi Nagar,
Vellore - 632 006.

2.The Presiding Officer,
Industrial Tribunal cum
Principal Labour Court, Vellore.

+1 cc to M/s.V.Parivallal, Advocate Sr.No. 91487
+1 cc to M/s.T.S.Gopalan, Advocate Sr.No.91573

AKM/12.12.19/3P-5C /

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