

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.29316 of 2005

M.Aswathappa

...Petitioner

..Vs..

1.The Presiding Officer,
Labour Court, Salem.

2.The Management,
Renowned Auto Products Manufacturing
Ltd., Plot No.122, Hosur.

...Respondents

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus calling for the records of the respondents particularly that of the first respondent in I.D.No.365/1998 dated 09.11.2004 and quash the same as illegal, unlawful, unsustainable in law and consequently direct the second respondent to reinstate the petitioner with full backwages, continuity of service and other benefits occurred thereon.

For Petitioner : No appearance

For Respondent : S.Ravindran, SC
for Mr.V.M.Narayanan (for R.2)

ORDER

The award dated 09.11.2004 passed in I.D.No.365/1998 is under challenge in the present writ petition.

2.The writ petitioner/workman states that he has appointed as Casual Labourer in the second respondent/Factory w.e.f., 11.12.1987. By virtue of proceedings dated 05.08.1989, the petitioner was appointed as Trainee w.e.f. 15.05.1989, he was promoted as Operator w.e.f. 30.10.1991. The petitioner states that all of a sudden on 31.10.1992, when he reported for duty, the second respondent refused the petitioner to work and informed him that he is removed from service. Thus, he

approached the Conciliation Officer and the same ended in failure. Subsequently, the petitioner raised an industrial dispute in I.D.No.365/1998 before the first respondent. The first respondent passed an award on 09.11.2004 rejecting the industrial dispute against which the present writ petition is filed.

3.It is the contention of the petitioner that the second respondent/workman has not issued one month notice or by payment of one month salary as required under Section 25F of the Industrial Dispute Act. The said illegality committed by the Management was not considered by the Labour Court.

3.The learned Senior counsel appearing on behalf of the second respondent/Management disputed the contention by stating that the Labour Court is right in rejecting the claim on the ground that the petitioner was a probationer and as per the terms and conditions of the service, he was discharged from service. In view of the fact that, he was not imposed with the penalty of termination and he was discharged from service based on the terms and conditions of the appointment. There is no necessity to issue any notice or pay one month salary as contemplated under Section 25F of the I.D. Act, when the terms and conditions of the appointment states that on probation his services came to an end then no such prior notice is required.

4.In the present case on hand, the writ petitioner was probationer and as per the terms of appointment, he was discharged. The Labour Court in its findings categorically held that the services of the petitioner terminated by invoking the terms and conditions of the appointment order. Thus, there is no illegality in passing the order of termination. The Labour Court also found that it is not an order of termination by way of punishment, it is issued pursuant to the terms and conditions of the appointment and therefore, compliance of Section 25F does not arise at all.

5.This being the factum of the case, there is no perversity or infirmity in the award passed by the Labour Court and consequently, the award dated 09.11.2004 in I.D.No.365/1998 is confirmed and the writ petition stands dismissed. No costs.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

mrm

To

1.The Presiding Officer,
Labour Court, Salem.

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KK (CO)
SP (06/11/2019)



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