

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM

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

W.P.No.30878 of 2005

T.Chinnamunireddy

... Petitioner

Vs

1. Presiding Officer,
Labour Court,
Salem.

2. WENDT (India) Limited
rep.by its
Plot No:69/70, SIPCOT Industrial Complex
Hosur-635 126.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records of the first respondent in I.D.No.163/99 dated 23.07.2004 and quash the same and consequently, direct the second respondent to reinstate the petitioner with continuity of service, backwages and other benefits.

For Petitioner : Mr.Aarthi Duraisamy
for Mr.P.Ravishankar

For Respondents: R1-Labour Court
Mr.M.R.Raghavan for R2.

O R D E R

The award dated 23.07.2004 in I.D.No.163/99 is under challenge in the present writ petition.

2. The writ petitioner/workman states that he joined the service of the second respondent as a trainee[operator], during the year 1993. The second respondent is engaged in the manufacture of Diamond Grinding Wheels, having its factory at Hosur. The writ petitioner further stated that after completion of the training period, he was placed under probation for a period of two year from 08.04.1998. The probation period was scheduled to be completed on 07.04.1999.

On 12.05.1998, the petitioner went to the factory. At that time, the second respondent denied admission to enter into the factory. The petitioner gave a representation to the second respondent on 23.06.1998, seeking continuity of employment. The second respondent did not give any reply and subsequently, the writ petitioner raised an industrial dispute in I.D.No.163 of 1999.

3. The learned counsel for the writ petitioner vehemently contended that the writ petitioner is entitled for reinstatement with continuity of service. The Labour Court has committed an error in awarding a meagre amount of compensation and such an order is untenable. It is further contended that the first respondent ought to have considered the fact that the termination was made without conducting any enquiry and following the procedures. Thus, the order of termination is improper and invalid in law.

4. The learned counsel appearing on behalf of the second respondent disputed the contention of the writ petitioner by stating that the writ petitioner was engaged as a trainee and after completion of the training period of two years, he was put on probation. During the probation period, the officials of the second respondent made assessment of the work performance and arrived at a conclusion that the service of the writ petitioner was not satisfactory. On that ground, they have discharged the writ petitioner from service. It is contended that the writ petitioner was not terminated on the ground of misconduct or otherwise, and that he was discharged from service as his performance was not satisfactory.

5. This Court is of the considered opinion that the Labour Court has considered the documents filed by the respective parties and the appointment order filed before the Labour Court reiterates that he was initially engaged as a trainee and subsequently, the order of appointment was issued on completion of training period. The appointment order states that the petitioner will be on probation. At that time, the order of discharge was issued on the ground that his services were not satisfactory. When an employee is under probation, if the competent authority arrived at a conclusion that the services of such employee were not satisfactory, they are empowered to discharge the employee from service as per the terms and conditions of the appointment. The writ petitioner cannot be construed as a full time member of the service as he was on probation. Therefore, there is no infirmity in respect of the discharge of the writ petitioner during the period of probation. The Labour Court has also rightly appreciated the documents as well as evidence produced by the respective parties and arrived at a conclusion that the discharge of the writ petitioner from service is not a penalty and discharge was made, based on the terms and conditions of the

appointment. However, the Labour Court granted compensation of Rs.5,000/- with 6% interest, directing the second respondent to pay the said amount within a period of three months. But the writ petitioner has challenged the award without accepting the payment of compensation.

6. This Court is of the considered opinion that the Labour Court appreciated the documents and arrived at a conclusion that there is no infirmity in discharging the writ petitioner from service and the said discharge was made during the period of probation. Under these circumstances, the writ petitioner has not established any acceptable ground for the purpose of assailing the award of the Labour Court.

7. The learned counsel for the second respondent has stated the writ petitioner is not entitled for 6% interest as of now, since he did not accept the compensation, despite the fact that the Management is willing to settle the compensation, but the writ petitioner is entitled to get the compensation as per the award of the Labour Court. Thus, the second respondent is liable to pay 6% interest per annum from the date of filing of I.D.No.163 of 1999, till the date of dismissal of the Industrial Dispute.

8. Accordingly, the award dated 23.07.2004 in I.D.No.163 of 1999 is confirmed and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssb

To

1. Presiding Officer,
Labour Court,
Salem.

+1cc to Mr.M.R.Raghavan, Advocate SR.84905

W.P.No.30878 of 2005

(CO)
CB(19/11/2019)