

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.32506 of 2015

K.Naresh

.. Petitioner

-vs-

1.The Presiding Officer,
Central Govt. Industrial Tribunal-cum-
Labour Court,
Shastri Bhavan, Chennai-600 006.

2.Executive Director,
Bharat Heavy Electricals Ltd.,
Tiruchirapalli-620 014.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the common award dated 25.08.2014 passed by the 1st respondent and quash the same in so far as the same is related to I.D.No.77 of 2013 and consequently direct the 2nd respondent to reinstate the petitioner in service from the date of termination i.e., from 18.10.2010 with back wages, continuity of service and other attendant benefits.

For Petitioner : Mr.G.Ilamurugu

For Respondents : R1 - Tribunal
: R2 - Mr.Anand Gopalan
For M/s.T.S.Gopalan & Co.

ORDER

The award dated 25.08.2014, passed by the 1st respondent in I.D.No.77 of 2013 is under challenge in the present writ petition.

2.The writ petitioner/workman was appointed as DR Artisan (Temporary Employee/Artisan) with effect from 05.02.2009 on daily wage basis. The appointment was granted pursuant to the interview held on 29.01.2009 and after completion of six months of temporary service, the writ petitioner was placed on

consolidated pay of Rs.5,500/- per month with effect from 05.08.2009 for a further period of six months. When the writ petitioner was under the consolidated pay of salary as a temporary employee, a charge sheet dated 30.01.2010 was issued by the 2nd respondent Management.

3.The allegation against the writ petitioner was that he had produced a false experience certificate, which was subsequently found by the 2nd respondent Management as not genuine. A show cause notice for initiation of disciplinary action was issued to the writ petitioner and the petitioner submitted his explanation on 08.02.2010, stating that the experience certificate produced by him was correct and requested for withdrawal of the disciplinary proceedings. The Management informed that the explanations were not satisfactory and appointed an Enquiry Officer, who in turn, conducted a domestic enquiry and submitted his report by holding that the charges against the writ petitioner were proved. Based on the proved charges, the writ petitioner was terminated from service.

4.The petitioner raised an industrial dispute in I.D.No.77 of 2013. The Industrial Tribunal adjudicated the issues, and the preliminary issue regarding the fairness of the enquiry was also held in favour of the Management on 03.06.2014. Once the fairness of enquiry was accepted by the Tribunal, thereafter, the other issues were adjudicated. The Industrial Tribunal arrived a conclusion that the writ petitioner workman admitted the facts regarding the submission of a false experience certificate and secured employment.

5.The learned counsel for the writ petitioner states that the work experience of the writ petitioner was not disputed by the Management. He was working with another establishment and the certificate was issued by an Engineer and therefore, there was no intention on the part of the writ petitioner for production of any false experience certificate at the time of securing employment with the 2nd respondent Management.

6.It is pleaded before this Court that the writ petitioner is an innocent and illiterate labour and therefore, the Labour Court ought to have considered these factors for the purpose of granting relief to the writ petitioner. The learned counsel for the petitioner further states that the other person in respect of the experience certificate was considered and the case of the writ petitioner was alone rejected.

7.The learned counsel for the 2nd respondent Management contended that each case was considered based on the facts and circumstances and therefore, the writ petitioner cannot compare

his case with other person, as the facts were not connected with the case of the writ petitioner.

8. Experience certificate was sought for by the Management for the purpose of granting the benefit of age relaxation to the persons, who possess work experience. This being the terms notified in the recruitment notification, when a person availed age relaxation by producing work experience certificate, then the certificate must be genuine and in the event of identifying that the work experience certificate was false one, then the age relaxation granted also became invalid. Even otherwise, an inference is to be drawn that the false work experience certificate was produced in order to avail the concession of age relaxation as per the notification issued for recruitment. In either case, the submission of bogus certificate is a misconduct and therefore, there is no infirmity in respect of the institution of disciplinary proceedings against the writ petitioner. The Labour Court also found that the experience certificate was false one and the said false certificate was produced for the purpose of securing employment with the 2nd respondent Management. The finding in paragraph 12 of the award dated 25.08.2014 is relevant and the same is extracted hereunder:-

"12.Ext.M8 is the experience certificate submitted by the petitioner to the respondent. This is in the letter head of M/s VKN Enterprises and is signed by a Senior Inspection Engineer. The certificate which is seen signed by the Engineer of 18.10.2008 states that the concerned person was working as a Welder in Arc Welding in the Company from the month of February 2006 to till date. During the enquiry proceedings the petitioner has admitted and even produced a document showing that he has actually worked not directed under VKN Enterprises but was working with a Contractor of VKN Enterprises only. However, there is no reference to this Ext.M8 at all. If the petitioner was actually working under some other concern it was not proper on his part to furnish an experience certificate purported to be that of VKN Enterprises putting forth a claim that he was working with M/s VKN Enterprises as its direct employee. From the very admission given by the petitioner, it is seen that the certificate is a false one. Ext.M13 is the reply from M/s VKN Enterprises stating that they did not issue the certificate in question. In view of the admission of the petitioner that he did not work with VKN Enterprises but under another

establishment, the non-examination of the authority who gave Ext.M13 letter is not of any consequence. Even otherwise, by the admission of the petitioner it is proved that the certificate is not genuine."

9. Even in the counter statement filed before the Tribunal, the 2nd respondent Management has clearly averred that on 22.05.2009, when the 2nd respondent sought confirmation about the genuineness of the certificate from M/s.VKN Enterprises, they gave a reply on 22.05.2009, stating that the certificate was not issued by the said Management. This being the facts and circumstances, the Labour Court has rightly considered the documents as well as the evidence produced before the Labour Court and there is no infirmity or perversity.

10. Production of such experience certificate is undoubtedly vital for appointment. The candidates, who all are aspiring to secure employment, must produce the genuine certificates and in the event of identifying any such certificate is false, they are liable for suspension and for disciplinary proceedings.

11. In the present case, disciplinary proceedings were initiated and opportunities as contemplated were provided to the workman and as well as the fairness of the enquiry was also upheld by the Labour Court. This being the facts and circumstances, the award dated 25.08.2014, passed by the 1st respondent in I.D.No.77 of 2013 is confirmed. Consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1. The Presiding Officer,
Central Govt. Industrial Tribunal-cum-
Labour Court,
Shastri Bhavan, Chennai-600 006.

2. The Executive Director,
Bharat Heavy Electricals Ltd.,
Tiruchirapalli-620 014.

+1cc to M/s.T.S.Gopalan & CO. Advocate SR.88825
+1cc to Mr.G.Ilamurugu, Advocate SR.89427

W.P.No.32506 of 2015

PP (CO)
CB (04/12/2019)



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