

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18-11-2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4502 of 2012

M.Chinnathambi

.. Petitioner

vs.

1.The Presiding Officer,
Labour Court, Salem.

2.The Management of Aro Granite Industries Ltd.,
103, SIPCOT Industrial Complex,
Hosur,
Pincode-635 126.

.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No.43 of 2008 and quash the Award dated 17.02.2009 passed by the first respondent and quash the same and further direct the second respondent to reinstate the petitioner in service, with back wages, continuity of service and all other attendant benefits.

For Petitioner : Mr.K.V.Shanmuganathan
For Respondent-1 : Labour Court
For Respondent-2 : Ms.D.Veda

ORDER

The order dated 17.02.2009 passed by the first respondent-Labour Court in I.D.No.43 of 2008, is sought to be quashed in the present writ petition.

2. The writ petitioner-workman states that he joined the services of the second respondent-Management as an Attender on 10.08.1990. By an order dated 26.10.1996, the writ petitioner-workman was transferred to Canteen and asked to prepare tea and to carryout all kinds of sundry and odd works not related to his position as an Attender.

3. The writ petitioner-workman raised demurs and insisted the second respondent-Management to restore him in his original position. The writ petitioner-workman further made a demand for salary hike and in this regard, he made a

representation. On account of certain allegations of disobedience of the orders of the Superiors, a charge memo was issued and after conducting an enquiry, the writ petitioner-workman was dismissed from service on 17.07.1998.

4. The writ petitioner-workman raised an industrial dispute in I.D.No.304 of 1999, which was allowed and he was reinstated in service. Thereafter, the writ petitioner-workman was transferred from Hosur to Delhi. The order of transfer was issued on 16.11.2006 and he made a representation for withdrawal of the orders of transfer. Admittedly, the writ petitioner had not joined in the transferred place. The writ petitioner-workman raised an industrial dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 in I.D.No.43 of 2008. The Labour Court adjudicated the issues and arrived a conclusion that the writ petitioner-workman is not entitled for reinstatement as he had abandoned his job by not joining in the transferred place.

5. Considering the length of service rendered by the writ petitioner-workman, the Labour Court awarded compensation cumulatively for 50 months based on his last drawn salary, excluding provident fund and other allowances, as full and final settlement. The said compensation was awarded by the Labour Court, taking into consideration the workman had abandoned the job and not joined duty in the transferred place.

6. The learned counsel for the second respondent-Management brought to the notice of this Court that the amount of compensation viz., Rs.2,83,177/- was already paid to the writ petitioner-workman and the said amount was encashed by the writ petitioner on 25.02.2010 itself. The abovesaid amount of compensation was received by the writ petitioner-workman in the year 2010 and after receiving the compensation amount, the writ petitioner-workman set out a claim for reinstatement.

7. The learned counsel for the second respondent-Management reiterated that an order of transfer was issued considering certain administrative factors and further considering the fact that the writ petitioner-workman was continuously disobeying the orders of the Superiors. Thus, an order of transfer was issued on administrative grounds. However, the writ petitioner-workman had not reported for duty in the transferred place and refrained himself from attending the duty. Under these circumstances, it is to be construed that the writ petitioner-workman had abandoned the job and therefore, the writ petitioner-workman is not entitled for reinstatement. However, the Labour Court considering the length of service put in by the writ petitioner-workman with the second respondent-Management,

awarded compensation amount of Rs.2,83,177/- and the said amount also had been paid to the writ petitioner-workman. Under these circumstances, the Award of the Labour Court is not infirm and accordingly, the writ petition is liable to be rejected.

8. This Court is of the considered opinion that the writ petitioner-workman, on earlier occasions, dismissed from service on account of the allegations of disobedience of the orders of the Superiors. By raising an industrial dispute, the writ petitioner-workman was reinstated into service. Subsequently, the writ petitioner-workman was transferred to Delhi and he had chosen not to report for duty. Thus, for all purposes, it is to be construed that as if he had abandoned the job and not attended the duty.

9. Thus, there is no perversity in respect of the decision taken by the Labour Court in this regard. The Labour Court considered all these aspects and arrived a conclusion that as he had not joined duty in the transferred place and therefore the writ petitioner-workman is not entitled for reinstatement. However, considering the length of services, the Labour Court awarded a compensation of Rs.2,83,177/- and the same was settled by the second respondent-Management to the writ petitioner-workman in the year 2010 itself.

10. This being the facts and circumstances, this Court is not inclined to consider the other relief of reinstatement, as there is no perversity in respect of the findings of the Labour Court regarding the abandonment of job by the writ petitioner. Accordingly, the order dated 17.02.2009 passed by the first respondent-Labour Court in I.D. No.43 of 2008 is confirmed and consequently, the present writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer, Labour Court, Salem.

+1cc to Mr.K.V.Shanmuganathan, Advocate Sr.No.95485

+1cc to Mr.Meenakshi Sundaram, Advocate SR.No.96343

AKM/20.01.2020 /3P-4C/

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