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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.9094 of 2019

The Management of Balaji Transport,
No.59, East Mada Koil Street,
Royapuram, Chennai 600 013.

...Petitioner

Vs.

1.M.Madhurai

2.The Presiding Officer,
I Additional Labour Court,
Chennai.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in I.D.No.206 of 2006 dated 12.07.2013 passed by the 1st Additional Labour Court, Chennai, second respondent quash the same.

For Petitioner : Mr.J.Ram

For Respondents: Mr.K.V.Anantha Krishnan for R1
R2-Court

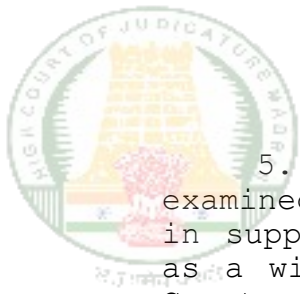
O R D E R

Aggrieved against the award passed by the Labour Court in directing the Management to pay a sum of Rs.1,00,000/- as compensation to the respondent/Workman, in lieu of reinstatement in service, the present writ petition is filed.

2.Heard both sides.

3.The Management is the writ petitioner. The first respondent/Workman has not questioned the award. The claim of the first respondent before the Labour Court is that he was employed as a Driver and was orally terminated on 23.04.2005 without any notice or enquiry. Therefore, he sought for reinstatement in service with backwages, continuity of service and other attendant benefits.

4. The case of the petitioner/Management is that the first respondent is not a permanent employee and on the other hand, worked only on a temporary basis. It is also their case that no question of permanency would arise, since the first respondent was not a permanent employee.



5. Before the Labour Court, the first respondent/Workman examined himself as Workman witness No.1 and marked Exs.W1 to W6 in support of his claim. The Management, except examining MW1 as a witness, not marked any document as Exhibits. The Labour Court, after going through the documents marked by the Workman, found that the Workman had established the fact that he had worked as a Driver in the respondent Company and the Management did not produce documents maintained by them, even after an application was filed by the Workman to produce the documents viz., nominal Muster Roll for the relevant period and other documents. Therefore, the Labour Court categorically found that the first respondent herein was a permanent employee of the respondent Management and that he cannot be terminated from service without issuing a month's notice or notice pay or compensation as provided under Section 25-F of the Industrial Disputes Act, 1947. The Labour Court also found that except the oral testimony of MW1, no other evidence to disprove the case of the Workman was filed by the Management. Thus, the Labour Court found that the termination was unjustified. However, by taking note of the fact that the Workman/first respondent herein, in the meantime, attained the age of superannuation, instead of ordering reinstatement in service, awarded a sum of Rs.1,00,000/- as compensation payable to the first respondent. The Labour Court also found that the Management failed to prove that the Workman had voluntarily left job on 23.04.2005.

6. Going by the factual findings rendered by the Labour Court, based on the evidence let in by both parties, more particularly, in the absence of any documentary evidence let in by the Management, I am of the view that the petitioner/Management has not made out a case for interfering with the award passed by the Labour Court, especially, when the first respondent has chosen to accept the award for payment of compensation in lieu of reinstatement. Accordingly, the writ petition fails and the same is dismissed. It is stated that already a sum of Rs.50,000/- was deposited by the petitioner/Management and the same was also withdrawn by the first respondent/Workman before the Labour Court. In view of the dismissal of the writ petition, the petitioner/Management shall pay the balance sum of Rs.50,000/- (Rupees Fifty Thousand only) to the first respondent/Workman within a period of four weeks. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vri



To

The Presiding Officer,
I Additional Labour Court,
Chennai.

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+lcc to Mr.J.Ram, Advocate, S.R.No. 100893

+lcc to Mr.K.V.Anantha Krishnan, Advocate, S.R.No. 10178

W.P.No.9094 of 2014

EV(CO)
GN(07/01/2020)