

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

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

W.P.No.23593 of 2014

S.Kannan

..Petitioner

Vs.

1. The Management,
Hatson Agro Products Limited,
Arun Ice Creams, No.114, Angadu Road
Nallur, Sengkundram,
Chennai - 600 062

2. The Presiding Officer,
III Additional Labour Court,
Chennai - 600 104

..Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records from the 2nd respondent pertaining to the Award dated 27.02.2013 passed in I.D.No.315/2009 and quash the same and consequently, direct the 1st respondent to reinstate the petitioner in service with continuity of service, full backwages and all other attendant benefits.

For Petitioner : Mr.T.P.Sekar

For Respondent : For R1 - Mr.S.Ravindran
Senior counsel
For Mr.S.Bazeer Ahamed
For R2 - Labour Court

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O R D E R

The Award dated 27.02.2013 passed in I.D.No.315 of 2009 is under challenge in the present writ petition.

2. The writ petitioner states that he was appointed as 'Operator' on 09.07.1997 and was working to the satisfaction of the superiors. The writ petitioner states that he was not

permitted to enter into the company and an oral termination was issued against the writ petitioner.

3. The writ petitioner states in the affidavit that an allegation was made against him by the 1st respondent Management that the petitioner had misbehaved with one female co-worker and not reported for duty from 12.09.2007 and with an intention to avoid the disciplinary proceedings, the writ petitioner refrained from reporting for duty. With this contention, the petitioner raised an Industrial Dispute in I.D.No.315/2009 and the Labour Court adjudicated the issues and dismissed the Industrial Dispute, against which, the present writ petition is filed.

4. The learned counsel for the writ petitioner states that the oral termination issued by the 1st respondent Management without following the procedures is untenable. The allegations against the writ petitioner regarding the misbehavior with a woman employee is also false. Under these circumstances, the Award of the Labour Court is perverse and liable to be scrapped.

5. The learned Senior counsel appearing on behalf of the 1st respondent disputed the contentions of the writ petitioner by stating that the findings in the Award are categorical and the Labour Court considered all the documents and evidences and there is no infirmity as such.

6. The learned Senior counsel for the 1st respondent submitted that the 1st respondent is in the business of milk pasteurizing and manufacturing dairy products. The 1st respondent is having factory at Redhills. During the year 1997, the petitioner joined in the service of the 1st respondent. It would appear that on 11.09.2007, the petitioner misbehaved with a woman employee in the factory and thereby, earned wrath of the employees and from next day onwards, he did not report for work. The 1st respondent waited for some time for the petitioner to report for work. Since nothing was heard from him, on 27.11.2007, the 1st respondent sent a letter to the petitioner, calling him to report for work. This was followed by another letter dated 07.03.2008. However, the petitioner neither replied nor reported for work.

7. It is further submitted that much later on 14.07.2008, the petitioner sent a letter to the 1st respondent, seeking permission to report for work. Even before the 1st respondent could reply, on 18.07.2008, the petitioner raised an industrial dispute before Conciliation officer. On 04.08.2008, the 1st respondent filed a reply, once again directing the petitioner to report for work. However, the petitioner did not do so, but proceeded with a futile litigation and adjudicated his pseudo

non-employment before the 2nd respondent in I.D.No.315 of 2009. In the counter statement also, the 1st respondent reiterated its stand that the petitioner could report for work. Even thereafter, the petitioner did not report for work.

8. The learned Senior counsel for the 1st respondent contended that before the 2nd respondent, the petitioner's documents marked as W1 to W6. The 1st respondent's documents were marked as M1 to M6. The petitioner examined himself and one P.Raja as witness. On behalf of the 1st respondent, its General Manager(Personnel) was examined as MW1. It is further submitted that by Award dated 27.02.2013, on appreciation of evidence, the 2nd respondent held that

(i) Very fact of sending telegram by the 1st respondent to the petitioner would prove that the petitioner was not interested to report for work.

(ii) in Cross-examination, the petitioner categorically admitted that he did not send any letter to the Management before sending exhibit W2 dated 14.07.2008.

(iii) If really the petitioner was terminated from service, he should have at once sent a letter asking for employment.

(iv) Before the Court also, the Management filed a memo stating that the petitioner could report for work.

(v) In the course of cross-examination, the petitioner categorically admitted that he was not interested to report for work and he was ready to receive compensation.

(vi) The petitioner has not adduced any evidence to prove his allegations of victimization.

9. It is stated by the learned Senior counsel for the first respondent that on the above factual finding, the 1st respondent rejected the dispute raised by the petitioner and dismissed the same. The present writ petition also filed by the petitioner after a lapse of 1 ½ years is liable to be dismissed on the ground of laches.

10. Perusal of the findings of the Labour Court reveals that the petitioner himself admitted that he is not interested to report for work and he is ready to get compensation. Taking note of all these evidences as well as the deposit of the workman concerned, the Labour Court found that he is not entitled for any relief and accordingly, dismissed the Industrial Dispute.

11. This Court is of the considered opinion that there is no perversity or infirmity in respect of the award passed and

accordingly, the Award dated 27.02.2013 passed in I.D.No.315 of 2009 stands confirmed and the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

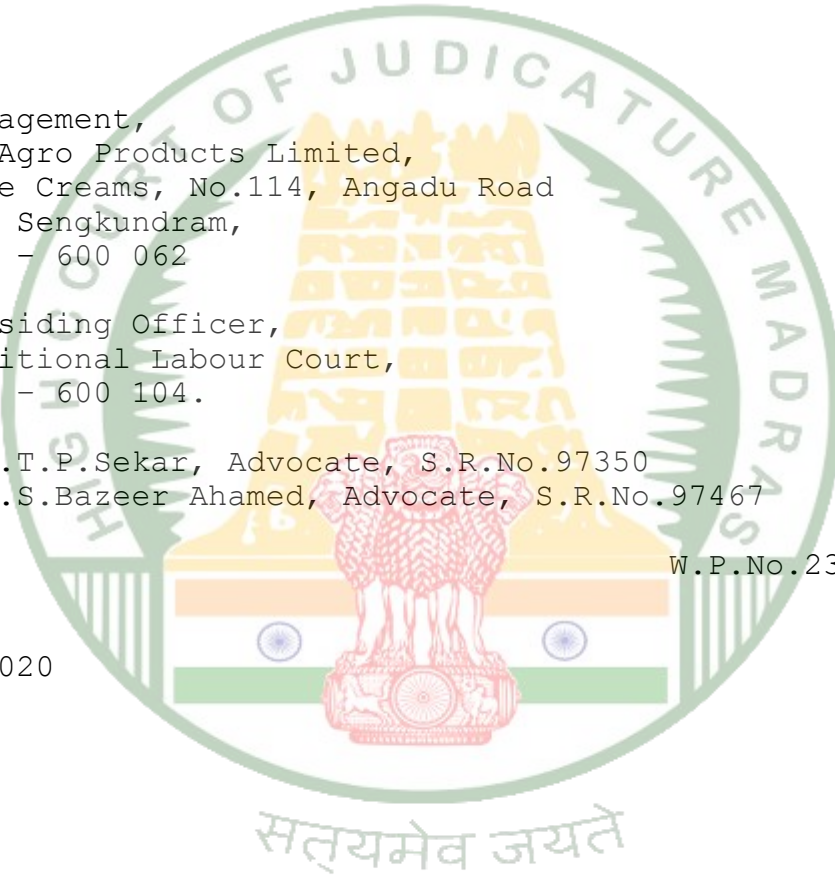
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+1cc to Mr.T.P.Sekar, Advocate, S.R.No.97350

+1cc to Mr.S.Bazeer Ahamed, Advocate, S.R.No.97467

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VGI (CO)
CS/24/01/2020



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