



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.1658 of 2012 and
M.P.Nos.2 & 3 of 2014

The Management of Christian Medical College & Hospital,
Post Box No.3, Ida Scudder Road,
Vellore-632 004.

Rep. by its Head of Personnel Dept.

.... Petitioner

vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.Mr.John A.Christopher

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records connected with I.D.No.198 of 2007 on the file of the 1st Respondent and to quash the order dated 19.04.2011 made therein.

For Petitioner : Mr.Sanjay Mohan, Senior Counsel
For Mr.S.Ramasubramaniam

For R1 : Court

For R2 : Mr.L.Chandra Kumar

O R D E R

This Writ Petition has been filed, challenging the Award of the 1st Respondent dated 19.04.2011, passed in I.D.No.198 of 2007, by which, the punishment of dismissal imposed on the Employee / 2nd Respondent was substituted into one increment cut without cumulative effective, without back wages.

2. It is the case of the Petitioner-College (in short 'the College') that the College is a Charitable Institution and also a Minority Educational Institution, in which the 2nd Respondent / Employee was appointed as Radio Grapher in Radio Therapy. He was issued with a charge memo for certain misconducts and the explanation submitted by him on 19.08.2006 was found to be unsatisfactory. It is further case of the College that after a



WEB COPY
detailed enquiry and on the basis of the enquiry report dated 20.02.2007, the Employee was terminated from service. Aggrieved by the same, he raised an Industrial Dispute before the Labour Court and after receipt of the failure report, the Labour Court numbered the dispute in I.D.No.198 of 2007. The Principal Labour Court, Vellore, after considering the oral and documentary evidence as well as the preliminary issues, passed an Award as stated supra, against which, the College is before this Court.

3. Learned Senior Counsel for the College mainly submitted that as the College did not have sufficient material to establish the gainful employment of the employee on 19.09.2014, on the said date, this Court directed the College to pay wages under Section 17-B of the Industrial Disputes Act, 1947, as it is a mandatory requirement for any Management to pay the Wages on its failure to prove gainful employment of the Employee. Learned Senior Counsel for the College further submitted that it has now come to the knowledge of the College that the Employee is gainfully employed in a Hospital at Netherlands and, when a Party has approached this Court with false averments, this Court can reappraise the evidence. In this case, even though the Employee was gainfully employed, he has made a false statement before this Court that he was without employment, thereby committed an act of perjury.

4. On 24.02.2015, this Court directed the Employee to produce a xerox copy of the Passport and visa particulars from the date of award and also the employment certificate before this Court, consequent to which, learned counsel for the Employee has produced certain pages of the Passport. The Employee has purposely not produced the visa particulars and also the employment certificate as directed by this Court. A cursory look at the passport copies shows that the Employee has been periodically visiting abroad and it appears that on the date of filing the petition for 17-B wages, he would not have been in India. Though there are several endorsements found in the Passport, the factum whether it was made at the exit level or entry level cannot be gone into now.

5. At this juncture, learned counsel for the Employee stated that at least, terminal benefits may be paid to the Employee after adjusting the amount of wages already paid under Section 17-B of the I.D.Act, 1947.

6. Per contra, the contention of the Employee is that the employer lost confidence in the Employee and therefore, the award of the Labour Court can be interfered with by this Court on that score. The wages paid under Section 17-B of the I.D.Act, 1947 can be adjusted from any of his terminal benefits and if



there are no terminal benefits accrued, the employee will have to repay the same to the employer.

7. From the records, it is clear that the Employee was employed abroad and that he has suppressed the said fact before this Court and obtained an order, which is nothing, but an attempt made to mislead this Court. Though the Award passed by the Labour Court is based on the finding of fact and the Supreme Court in the case reported in AIR 1964 SC 477 (Syed Yakoob vs. K.S.Radhakrishnan), followed by Kerala High Court in Instrumentation Employee's Union vs. Labour Court, Kozhikode, reported in 1993 (I) LLN 75, clearly held that a finding of fact rendered by the Labour Court cannot be interfered with, unless or otherwise there is perversity, the Apex Court in yet another case in S.P.Chengalvaraya Naidu vs. Jagannath, reported in (1994) 1 SCC 1, observed as under:

"The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the Court is being abused. Property grabbers, tax evaders, Bank loan dodgers, and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal-gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach the Court. He can be summarily thrown out at any stage of the litigation."

8. Thus, it is obvious that a party approaching the Court must be with clean hand and in this case, a lot of suspicion arises due to the conduct of the Workman, as he has not approached this Court with clean hands. In the affidavit filed in support of M.P.No.2 of 2013 in W.P.No.1658 of 2012, especially in Paragraph No.6, the Employee has averred as follows:

"6....Moreover, the petitioner herein has been out of employment for the past 6 years, thereby suffering without monetary assistance and finding it difficult to have even square meal a day."

The affidavit has been duly endorsed by an Advocate and it is not known as to whether the Employee signed the affidavit before the Advocate or not, as his travel particulars reveal otherwise. Since the act of the Employee attracts penal provisions of the law of the land, no indulgence can be shown to the Employee for the act of perjury and the Employee is not entitled to any



relief. Hence, this Court is of the view that the contention of the College that the Management lost confidence in the Employee, cannot be brushed aside and lost sight of and it has merit acceptance.

WEB COPY

9. Accordingly, this Writ Petition is allowed and the Award of the 1st Respondent dated 19.04.2011, passed in I.D.No.198 of 2007 is hereby set aside. This is a fit case to prosecute the 2nd Respondent / Employee for making a false statement on oath, not only attracting the provisions of Section 191 I.P.C., but also other provisions.

10. Notice is ordered to the 2nd Respondent / Employee herein to appear in-person before me on 07.10.2021 for preliminary enquiry under Section 195 r/w 340 Cr.P.C., as the Employee cannot be allowed to go scot free.

11. On a perusal of the Passport copy produced by the Employee, it is seen that his Passport bearing No.G9119966 expired as early as on 02.07.2018 and it is not known as to whether the Passport has been subsequently renewed or not. Therefore, a copy of this order shall be marked to the Passport Authorities to ascertain about its renewal and for seizure of the passport, as it is mentioned in the backside of the Passport that "This Passport is the property of the Government of India", which, according to me, should not vest with a dishonest man, who used to utter falsehood in the Court of Law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ar

To:

- 1.The Presiding Officer,
Principal Labour Court,
Vellore.
- 2.The Registrar (Judicial),
High Court,
Madras.



3. Regional Passport Officer,
Royala Towers Nos.2 & 3,
IV Floor, Old No.785, New No.158,
Anna Salai, Chennai-2.

WEB COPY

4. The Section Officer,
Writ Section,
High Court, Madras
5. The Section Officer,
Writ Notice Section,
High Court, Madras
6. Mr.John A.Christoper,
S/o Mr.C.Arulappan,
No.22, 2nd Street,
Bharathi Nagar Extension, Vellore-07
(To Appear in person before the Hon'ble Court on 07.10.2021
for preliminary enquiry under section 195 r/w 340 Cr.P.C.)

+1CC to Mr.S.Ramasubramaniam & Associates, Sr.No.33678
+1CC to Mr.L.Chandrakumar, Advocate, Sr.No.33841

W.P.No.1658 of 2012

LN (CO)
K.RK. (23.09.2021)