



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13497 of 2006

M/s. Rajam Security Bureau,
Rep. by its Managing Director
Mrs.R.S.Vasanth Kumari,
4/13, T.V.S.Nagar,
6th Street, Padi, Chennai- 50.

...Petitioner

Vs

1.The Deputy Commissioner of
Labour (Minimum Wages),
Chennai.

2.P.R.Kalyanasundaram

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records of the 1st respondents herein in T.S.E.II-2/05 dated 19.12.2005 and quash the same.

For Petitioner : Mr.P.M.Duraiswamy

For R1 : Mr.S.Arumugham,
Government Counsel

For R2 : No Appearance

ORDER

Heard Mr.P.M.Duraiswamy, learned counsel for the petitioner and Mr.S.Arumugham, learned Government Counsel appearing for the first respondent.

2. When the matter was listed on the earlier occasions, there was no representation for the second respondent and hence, the writ petition was taken up today. Even today, there is no representation for the second respondent.



3. The predominant ground raised by the learned counsel for the petitioner is that the second respondent herein was never terminated from the post of Marketing Manager in the petitioner's security services and that the second respondent had voluntarily stopped from coming to work. According to the petitioner/management, the second respondent had stopped coming for work from 10.03.2005 and thereafter, he was engaged in various security agencies, in which places also, he had not given his resignation letters.

4. The Appellate Authority, through the impugned order dated 19.12.2005, though had observed that the second respondent herein had not produced any documentary evidences to substantiate that he was terminated from service, had only placed reliance on the reply notice dated 19.04.2005 and stated that the management had not substantiated that they had not terminated the second respondent. The Appellate Authority had also presumed that, had the second respondent voluntarily stopped from coming to work, the management ought not to have given a notice to him, which they had not done. It is on this presumption, the Appellate Authority had passed an order to reinstate the second respondent herein.

5. I do not find any justification on the part of the Appellate Authority in coming to such a conclusion. When the second respondent herein had failed to substantiate that the management had terminated his services through documentary evidences, the presumption ought not to have been arrived at only on the basis that the petitioner had failed to mention the second respondent's conduct in their reply notice.

6. Even otherwise, the second respondent herein has not chosen to appear before this Court on more than two occasions to substantiate his case. In this background, I do not find any justification on the part of the Appellate Authority in having ordered for reinstatement. Accordingly, the Writ Petition stands allowed and the impugned order passed by the first respondent herein dated 19.12.2005 is quashed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar



drm/hvk

To

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The Deputy Commissioner of Labour
(Minimum Wages),
Chennai.

+1cc to the Government Pleader, S.R.No.45240

W.P.No.13497 of 2006

GPL(CO)
SB(06/10/2021)