



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P. (MD)No.12169 of 2011

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J.Dhanaraj Solomon

... Petitioner

versus

1. The Management,
St. Luke's Hospital,
Nazerath - 628 617,
Tuticorin District.

2. The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

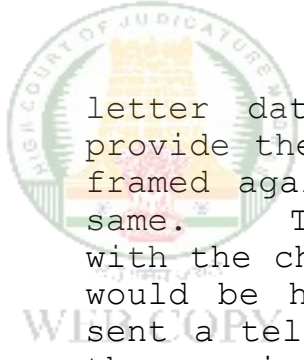
Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Ceriorarified Mandamus, to call for the records pertaining to the Award passed by the 2nd respondent in I.D.No.4 of 2001 dated 16.08.2011 and quash the same insofar as the denial of back wages and consequently, direct the 1st respondent to pay back wages and other Attendant Benefits to the petitioner.

For Petitioner : Mr.K.Diwakaran
For Respondents : Mr.P.Chandrabose for R1

ORDER

This writ petition has been filed seeking for the issuance of Writ of Ceriorarified Mandamus, to call for the records pertaining to the Award passed by the 2nd respondent in I.D.No.4 of 2001 dated 16.08.2011 and quash the same insofar as the denial of back wages and consequently, direct the 1st respondent to pay back wages and other attendant benefits to the petitioner.

2. The case of the petitioner is that the petitioner joined the services of the first respondent in the year 1988 and he was appointed as an "Ophthalmic Technician" in the year 1990 as an apprentice / on probation for a period of two years. On completion of probation, he was appointed as a permanent employee by the first respondent. While so, the first respondent issued an order of suspension dated 14.07.1998, without any reason. Challenging the same, the petitioner filed a case in O.S.No.78 of 1998 before the Munsif Court, Srivaikundam. Thereafter, the first respondent, vide his proceedings dated 03.09.1998, framed charges against the petitioner and called for his explanation. The petitioner sent a



letter dated 14.09.1998 to the first respondent, requesting to provide the copies of the documents based on which the charges were framed against him, but, the first respondent did not provide the same. The first respondent sent another letter dated 17.05.1999 with the charges levelled against him and informing that the enquiry would be held on 22.05.1999. Due to his illness, the petitioner sent a telegram to the Enquiry Officer, requesting him to postpone the enquiry, accordingly, the enquiry was postponed to 27.05.1999. Thereafter, the petitioner sent another telegram to the Enquiry Officer requesting him to postpone the enquiry proceedings. Thereafter, the petitioner, by his letter dated 02.06.1999, requested the Enquiry Officer to provide him the list of witnesses, the copies of the complaints. However, without providing an opportunity of hearing and without providing any documents, an ex parte enquiry was conducted and a show cause notice dated 04.06.1999 was issued as to why he should not be dismissed from service. Immediately, the petitioner sent a reply dated 09.06.1999 to the first respondent. However, the first respondent, vide his proceedings dated 14.06.1999, dismissed him from service. In the mean time, the suit in O.S.No.78 of 1998 filed by the petitioner was dismissed by the Munsif Court, Srivaikundam. Thereafter, against the order of dismissal from service, the petitioner raised a dispute before the Labour Court, Tirunelveli, in I.D.No.4 of 2001, wherein, the Labour Court granted reinstatement with continuity of service, however, denied the back wages. Aggrieved over the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner has not been gainfully employed in anywhere, therefore, the denial of back wages to the petitioner is illegal. Therefore, he prayed for allowing the writ petition.

4. Per contra, the learned counsel for the first respondent/management submitted that after the Award, the petitioner was reinstated in service and thereafter, the petitioner resigned his job. Therefore, the entire terminal benefits of the petitioner were settled. Now, the petitioner has filed the present writ petition, claiming that since he has not been gainfully employed, he has to be given back wages. But, such plea has not been raised before the Labour Court and no document was produced with regard to the same. Therefore, the Award of the Labour Court does not require any interference.

5. Heard both sides and perused materials available on record.

6. A perusal of the award would go to show that the petitioner has not pleaded with regard to his non-employment in anywhere and he has not produced any document with regard to the same. Even before this Court, the petitioner has not produced any document to show that he has not been gainfully employed.



Therefore, the contention of the petitioner cannot be accepted. Hence, the award passed by the 2nd respondent is correct and sustainable in law. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(Records)

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/ /2021

Sub Assistant Registrar(CS)

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To

1. The Presiding Officer,
Labour Court,
Tirunelveli.

+1 CC to M/s.P.CHANDRA BOSE, Advocate (SR-2535[F] dated 01/02/2021)

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29.01.2021

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TR(24.02.2021) 3P 3C