



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:03.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13165 of 2012

and

M.P(MD)No.1 of 2012

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The Planning Officer cum
The Child Development Project Officer,
Orunginitha Kulandhigal Valarchi
Thitta Aluvalagam (Child Welfare Scheme)
No.48, Veerapandiyapuram Middle Street,
Devakottai, Sivagangai District.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.S.Kanagavalli

... Respondents

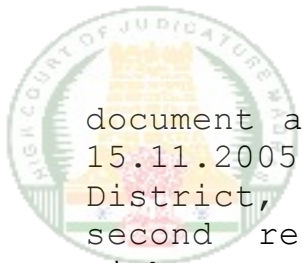
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings in I.D.No.100/2009 dated 27.06.2012 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.M.Karthikeyavenkatachalapathy
For R2 : Mr.J.Anandkumar

O R D E R

This writ petition has been filed by the petitioner to quash the impugned proceedings in I.D.No.100/2009 dated 27.06.2012 on the file of the 1st respondent.

2.The case of the petitioner is that the second respondent was working under the petitioner Management and she joined the services on 19.03.1983 on temporary basis. Thereafter, the second respondent was appointed as Anganwadi worker on 01.12.1989 and she had worked for 480 days in two years of service and she was a permanent work-woman. While so, one Tmt.Jothi, who is a Planning Officer joined in the year 2004, wanted to terminate the second respondent. Therefore, the petitioner gave a false complaint against the second respondent to the Higher Officials. Further, the petitioner threatened the second respondent and obtained her resignation letter. Thereafter, the petitioner created a false



document and the same was forwarded to the District Collector on 15.11.2005 and also she gave a complaint before the Sivagangai District, Child Development Officer on 22.11.2005, for which, the second respondent was suspended from service on 29.11.2005, without conducting any enquiry and without giving an opportunity of personal hearing. Challenging the same, the second respondent has filed a petition under Section 2(A)(2) of the Industrial Dispute Act, claiming reinstatement with continuity of service, back wages and other benefits.

3.On the side of the second respondent/workman, one witness was examined and the documents Ex.P.1 to Ex.P.4 were marked and on behalf of the petitioner one witness was examined and the documents Ex.R.1 and Ex.R.10 were marked.

4.After analyzing oral and documentary evidence, the Labour Court has refused to reinstate the second respondent and denied the back wages. However, the Labour Court has passed an Award, setting aside the order of termination holding that the non-employment of the second respondent is not justified and the petitioner was directed to disburse the terminal benefits, if any, to the second respondent. As against the award of the Labour Court, the present writ petition is filed.

5.The learned counsel appearing for the petitioner submitted that as per the Government Orders viz., G.O.Ms.No.146 Social Welfare and Noon Meal Programme Department, dated 16.11.2009 and G.O.Ms.No.175, Social Welfare and Noon Meal Programme Department, dated 31.12.2009, once the workmen had resigned their job and suspended from service, they are not entitled for pensionary benefits. In the present case on hand, the second respondent has resigned her post and after accepting the resignation letter, the second respondent has raised Industrial Dispute before the Labour Court, which is not sustainable one. Further the learned counsel submitted that the Labour Court, without considering the said resignation letter, passed an Award, in favour of the second respondent with terminal benefits. Hence, the learned counsel prays for allowing the present writ petition.

6.Per contra, the learned counsel appearing for the second respondent submitted that the petitioner entered into service in the year 1983 and after completion of 480 days in two years of service, the second respondent was suspended by the competent authority, based on the allegation made by the then Planning Officer. After elaborate consideration and perusal of the entire records, the labour Court passed the award in favour of the second respondent with regard to the payment of terminal benefits. The said order was passed by the Labour Court by appreciating and analyzing the evidence placed before it and this Court, at this



stage, cannot interfere with the same, by exercising its extraordinary power under Article 226 of the Constitution of India, by re-appreciating the evidence advanced before the labour Court. Therefore, the learned counsel prays for dismissal of the writ petition.

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7. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.

8. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court, in catena of decisions, has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

9. On a perusal of the award reveals that the second respondent entered into service in the year 1983. For certain allegations, the second respondent was suspended from service in the year 2005 and thereafter, no order was passed. The petitioner/Management claimed that the second respondent had resigned her job and the said resignation was approved on 31.05.2007. Further, the second respondent was suspended from service on 29.11.2005 and a charge memo was issued by the petitioner on 05.01.2006 and she has also submitted her explanation on 16.01.2006. and accepting her explanation, the petitioner has given employment again to the second respondent. Further, the second respondent had resigned her post on 31.07.2006 and the said resignation was also accepted on 31.05.2007. This Court is unable to understand the basis for accepting the second respondent's explanation, after a lapse of 10 months and there is no proper explanation put forth by the petitioner for the delay in accepting the resignation and there is no clarity in the petitioner's claim as to the basis on which the resignation letter was accepted on 31.05.2007.

10. In view of the above, I do not find any error in the order of the Labour Court and further the Labour Court has rightly passed the Award, ordering continuity of service of the 2nd



respondent and payment of terminal benefits, which cannot be interfered with. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

The Presiding Officer,
Labour Court,
Madurai.

W.P. (MD) No.13165 of 2012

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