



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.18084 of 2013

R.Murugan

... Petitioner

vs.

1.The Management,
Subburaj Textiles Mills Private
Limited,
Madurai Road,
Sankar Nagar Post - 627 357,
Tirunelveli District.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to in I.D.No.101 of 2007, dated 07.05.2012, passed by the second respondent and to quash the same and consequently to direct the respondent to reinstate the petitioner with the continuity of service and back wages.

For Petitioner	: Mr.D.Saravanan
For R1	: No appearance
For R2	: Labour Court

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, challenging the award passed in I.D.No.101 of 2007, dated 07.05.2012.

2.The brief facts of the case are that the petitioner was appointed in the first respondent Mill in the year 1998 and was regularized as Daffer in Spinning Department on 01.04.2000. On 27.03.2006, the petitioner submitted a representation before the Inspector of Factories, claiming that he was not granted permanency. After enquiry, the Inspector of Factories has granted permanency from 11.10.2003. On 19.03.2007, the petitioner approached the management to implement the order. The management suspended the petitioner from service on 08.11.2006. Thereafter, the management has issued a charge memo alleging unauthorized absence by the petitioner. The management has conducted an enquiry and based on the enquiry report, the petitioner was terminated from service on 21.04.2007. The petitioner has challenged the termination order before the Labour Court. The Labour Court has confirmed the termination order. Aggrieved over the same, the present Writ Petition is filed.



3. For the respondent one Mr.Manivannan, has filed vakalat. But, it is reported that Mr.Manivannan died. Heard Mr.D.Saravanan, learned Counsel appearing for the petitioner.

4. On perusing the Labour Court award, it is seen that the petitioner was regularized on 01.04.2000 and was continuing in service. On the basis of the order of Inspector of Factories, the petitioner ought to have made permanent on 11.10.2003. In the meanwhile, because the petitioner absented himself without prior intimation or without any leave application, the management has treated the period as unauthorized absence and has suspended the petitioner from service on 08.11.2006. Thereafter, the management had conducted an enquiry and has passed an order of removal from service with effect from 21.04.2007. Since the permanency order is for the period from 2003-2007, it ought to be dealt separately and the unauthorized absence is for the year 2007, it ought to be dealt separately.

5. Therefore, in order to meet the ends of justice, this Court is taking the two orders passed by the Inspector of Factories as well as the Labour Court and the following order is passed. The first respondent management is directed to confirm the permanency, based on the order of the Inspector of Factories, from 11.01.2003 to 20.04.2007. For the unauthorized absence, the petitioner is not entitled to reinstatement from 21.04.2007 and not entitled to any service and monetary benefits.

6. At this stage the learned Counsel appearing for the petitioner submitted that the erstwhile management has sold the factory to the present management and the petitioner has submitted a representation to grant job under the present management. Since there is change in management, present management cannot be compelled to grant permanency, based on the order of the Inspector of Factories, from 11.01.2003 to 20.04.2007, therefore the claim of the petitioner is rejected. However, the present management may consider the petitioner's representation to grant job and pass orders. This Court without going into the merits, is simply directing the present management to consider and pass orders.

7. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



To

The Presiding Officer, Labour Court,
Tirunelveli.

+1 CC to M/s.D.SARAVANAN, Advocate (SR-39917[F] dated 22/12/2021)

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RD(20.01.2022) 3P 3C