



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:24.02.2021

CORAM:

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

W.P. (MD)No.8917 of 2012

and

M.P. (MD) .No.1 of 2012

WEB COPY

R.Karnan

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai,
Madurai District.

2.The Management,
Ayyappan Textiles Limited,
Achundanvayal Village,
Ramanathapuram,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the award passed by the first respondent in I.D.No.87 of 2004, dated 29.02.2012 and quash the same as illegal in respect of denying the back wages is concerned and further direct the second respondent to disburse the retirement benefits and other eligible dues along with back wages.

For Petitioner

: Mr.S.Karthik

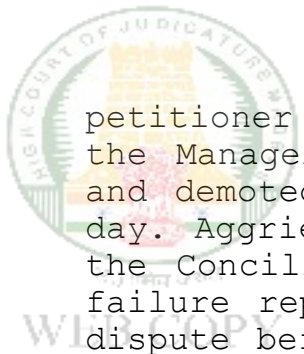
For R2

: No appearance

O R D E R

Challenging the award passed by the Labour Court, Madurai in I.D.No.87 of 2004, dated 29.02.2012, the present writ petition has been filed by the workman.

2. The case of the petitioner is that he joined as Doffer in the second respondent Mill in the year 1984. Thereafter, he was promoted as Bobbin Career and he received a sum of Rs.4,290/- as monthly salary. While so, on 26.11.2002, the petitioner suffered severe stomach pain and hence, he approached the Supervisor for leave. The Supervisor refused to grant leave. But the Manager granted one day leave. During the treatment, the Doctor advised the petitioner to take one month leave for undergoing herniae operation. Therefore, the petitioner was on leave from 26.11.2002 to 25.12.2002 for operation. Again, as per the Doctor's advise, he was admitted in District Hospital from 25.12.2002 to 22.01.2003. Thereafter, the petitioner met the Manager for leave with all medical records. But the Manager refused to give leave to the petitioner. Thereafter, the petitioner's son passed away on 10.02.2003. After two months, the



petitioner approached the Management for providing work to him. But the Manager refused to give original employment to the petitioner and demoted him as Badili as daily rated employee at Rs.100/- per day. Aggrieved by the said demotion, the petitioner has approached the Conciliation Officer and the Conciliation Officer has drawn a failure report. Therefore, the petitioner has raised an industrial dispute before the Labour Court, Madurai in I.D.No.87 of 2004. The Labour Court, by award dated 29.02.2012, directed the respondent Management to disburse the retirement benefits and other eligible legal dues if any to the petitioner within two months from the date of receipt of this order and the petitioner is not entitled to back wages and other benefits. Against the denial of back wages, the present writ petition has been filed.

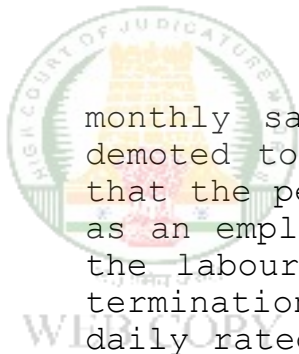
3. The learned counsel appearing for the petitioner would submit that the petitioner has provided proper explanation for his absence and also produced the medical certificate obtained from the Doctor. However, without considering the same, the second respondent Management has demoted the petitioner from one post to another, which is illegal. He would further submit that without following the principles of natural justice, the second respondent has passed the order. Moreover, the petitioner was not gainfully employed elsewhere and hence, the denial of back wages is unsustainable one. Hence, he prayed for allowing of this writ petition.

4. There is no representation on behalf of the second respondent Management.

5. Heard the learned counsel for the petitioner and perused the materials available on record.

6. 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 a 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.

7. The facts in the present case are not in dispute. Admittedly, the petitioner entered into service as Doffer in the second respondent Mill in the year 1984. Subsequently, he was promoted to the post of Doorman and received a sum of Rs.4,290/- as



monthly salary. For his unauthorised absence, the petitioner was demoted to Badili - II from Badili - I. However, the fact remains that the petitioner did not join duty as Badili II and not continued as an employee in the second respondent Management. It appears that the labour Court denied the back wages and it is not the case of termination, but it is only a demotion from the original post to daily rated post. If the petitioner rendered as a daily labourer in the second respondent Management, the Labour Court awarded the back wages. Since the petitioner not employed in the second respondent Management, the petitioner did not aver in the claim petition before the Labour Court that he was not gainfully employed anywhere else.

8. In view of the above, the denial of back wages by the Labour Court is perfectly in order. Hence, I am not inclined to interfere with the award passed by the Labour Court, Madurai in I.D.No.87 of 2004, dated 29.02.2012. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2021

Sub Assistant Registrar(CS)

To

The Presiding Officer,
Labour Court,
Madurai,
Madurai District.

Copy to

The Section Officer, (2C)
V.R.Section,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.S.KARTHIK, Advocate (SR-7402[F] dated 25/02/2021)

W.P. (MD)No.8917 of 2012
24.02.2021

SSS(CO)

KB(24.04.2021) 3P 5C