



WEB COPY



W.P.No.12013 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HON'BLE MR. JUSTICE S.S. SUNDAR, J.

W.P.No. 12013 of 2009

C.Palus

..Petitioner

Vs

1. The Presiding Officer,
Labour Court,
Coimbatore.

2. The Management of Akkurasap Engineering,
Thudiyallor,
Coimbatore.

..Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No. 245/05 on the file of the 1st respondent herein and quash the portion of the award dated 06.12.2007 which the first respondent had denied the normal relief of reinstatement with backwages continuity of service and all other attendant benefits and further direct the second respondent herein to reinstate the petitioner in service with backwages, continuity of service and all other attendant benefits.

For Petitioner : M/s.K.v.Shanmuganathan

For Respondent : Mr.S.Jayaraman, - R2



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ORDER

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2. Brief facts that are necessary for disposal of the writ petition are as follows;

2.1 The petitioner joined the services of the 2nd respondent in the year 1995. The 2nd respondent is an industry manufacturing motor pumps meant for domestic as well as agricultural purposes. The petitioner worked in Jaipur Branch of the 2nd respondent company from the date of joining the services till June 2003. Thereafter he was transferred to Tudiyalur Branch, Coimbatore. It was stated by the petitioner that he was illegally sent out from the employment on 12.12.2004 by the 2nd respondent-management. Challenging the same, the petitioner has raised an industrial dispute in I.D.No. 245 of 2005 before the Labour Court, Coimbatore/1st respondent herein. Though the petitioner had sought for reinstatement with all back wages, the 2nd



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respondent-management contended that the petitioner had given resignation letter and he was relieved after settlement of dues and produced documents.

Though the petitioner did not file any documents, the management exhibited documents as Ex. R1 to R5. The resignation letter given by the petitioner was not disputed. The case of the petitioner is that he was coerced to give resignation letter by stating that he will be facing serious charges if the petitioner did not resign the job. Unfortunately, the Labour Court without any independent evidence or materials, accepted the case of the petitioner that he was coerced to give resignation letter. However, the tribunal taking note of various circumstances and the fact that the petitioner was not engaged after 02.12.2004, held that the reinstatement of the petitioner will not be conducive. Hence the labour Court directed the 2nd respondent-management to pay compensation of Rs.20,000/-. Aggrieved by the same, the petitioner has preferred the present writ petition.

3. The learned counsel for the petitioner would submit that the impugned order passed by the Labour Court is contrary to the findings and therefore it is unsustainable in law. Since the petitioner was terminated from service illegally by violating the principles of natural justice, the labour Court



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ought to have directed the 2nd respondent-management to reinstate the petitioner with all back wages, continuity of service and all attendant benefits.

Therefore, the impugned award of the labour Court requires interference by this Court.

4. Heard both sides and perused the materials available on record.

5. On a careful perusal of entire award passed by the labour Court, Coimbatore, it is seen that the resignation letter of the petitioner marked by the 2nd respondent as Ex.R1 is admitted. The only objection raised by the petitioner is that he was coerced to give resignation letter. However, no independent evidence was adduced or witness examined to show that the petitioner was compelled by the 2nd respondent-management to give resignation letter. Subsequently, upon resignation, the petitioner was paid a sum of Rs.10,000/- towards final settlement as evident from records. It is seen that in the wake of committing serious misconduct, the management appears to have given option to the petitioner and the petitioner had given resignation letter instead of facing charges.

6. The 1st respondent/Labour Court, Coimbatore failed to see the documents marked by the management. The petitioner did not examine any



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independent witnesses to prove his serious allegation of coercion or threat posed by the 2nd respondent-management to resign the job of the petitioner.

The truth of such serious allegation cannot be presumed without cogent evidence.

7. Having regard to the admitted facts, this Court is unable to justify the findings of the Labour Court that the petitioner was terminated from service by violating the principles of natural justice. The said finding is not warranted when the resignation and the settlement by monetary payment amount is accepted/admitted by the petitioner. The 2nd respondent-management cannot be expected to prove that there was no coercion or compulsion as alleged by the petitioner and the 2nd respondent/Management cannot be asked to prove the negative. In the absence of any independent evidences or testimony by the petitioner to satisfy this Court, this Court is unable to sustain the finding of the labour Court. The burden lies on the petitioner who raised the dispute before the labour Court alleging illegal termination by the 2nd respondent-management. In the absence of any independent evidence or witnesses infavour of the petitioner, the tribunal/labour Court ought to have dismissed the application preferred by the



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petitioner. However, the labour Court has awarded a sum of Rs.20,000/- as exgratia.

8. On overall consideration of the submissions made by the learned counsel appearing for the parties concerned and the documents and evidence placed before this Court, this Court is of the view that the petitioner does not deserve any relief as sought for in the writ petition and the petition is liable to be dismissed.

9. Accordingly, the writ petition is dismissed as devoid of merits. No costs.

23.01.2023

Index : Yes / No
Internet : Yes
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To
The Presiding Officer,
Labour Court,
Coimbatore.



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