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W.P.Nos.18602 & 18603 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.Nos.18602 & 18603 of 2011

M.P.Nos.1 & 2 of 2011

The Management
Itares Shoes Pvt., Ltd.,
33, Gudiyattam Road,
Thuththipet Post,
Ambur, Vellore District 635811
Rep., by B.Mohamed Ifthikar
Director

... Petitioner in both W.Ps.

Vs

1.The Presiding Officer,
Principal Labour Court,
Vellore

... 1st Respondent in both W.Ps

2.S.Ganeshmurthy
2011

... 2nd Respondent in W.P.No.18602/

2.M.Manivannan
2011

... 2nd Respondent in W.P.No.18603/

COMMON PRAYER:- Writ Petition filed under Article 226 of the
Constitution of India, to issue a Writ of Certiorari to call for the records

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and quash the Award dated 19.04.2011 in I.D.Nos.253 & 252 of 2009 passed by the first respondent, Presiding Officer, Principal Labour Court, Vellore.

For Petitioner : Mr.Gupta and Ravi

For Respondents : No Appearance

COMMON ORDER

These Writ Petitions have been filed challenging the common award passed by the first respondent by directing reinstatement of the respective second respondents in service with continuity of service and other attendant benefits with 50% backwages.

2.Heard Mr.Gupta, learned counsel appearing for the petitioner. In spite of notices being served on the private respondents in both the Writ Petitions, they have neither appeared in person nor through their counsel before this Court.

3.The learned counsel appearing for the petitioner would submit that the private respondents were employed in the company during June

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2008 and they failed to report for duty on 11.04.2009. The private respondents along with one other employee had submitted resignation on 21.04.2009, under pretext that they were not satisfied with the salary paid to them. The said resignation has been accepted and they have been relieved, but however, they had initiated an industrial dispute, as if they have been refused to be given any duty, as they had claimed higher wages. A failure report was filed by the Conciliation Officer and thereafter, the dispute was referred to the Labour Court for adjudication. The Labour Court had held that the resignation was refuted by the private respondents contending that the same had been filled up with the blank signed paper that had been obtained by the Management at the time of appointment. The Labour Court by placing reliance upon the written statement, wherein it was contended that the Manager had received the resignation which was accepted by the Management company was unbelievable, as during the cross examination of MW1, it was accepted that there was no post of Manager in the company. It had also given a finding that the

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Management witness had categorically admitted in its cross examination that there is no such post of Manager in the petitioner company and therefore, disagreed to the contention of the Management that the private respondents had been voluntarily submitted their resignation.

4. The first respondent had therefore held that it was the Management who had denied the employment to the private respondents from 11.04.2009 and for denial of employment, there was no proper enquiry that had been conducted by the Management to terminate the private respondents by giving any proper notice. It had further held that the private respondents had worked more than 240 days in a calender year and had directed reinstatement of the private respondents with continuity of services and other benefits with 50% backwages.

5.The learned counsel for the petitioner would submit that based

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on all the findings, Labour Court had directed the reinstatement of the private respondents are perverse. He would submit when the private respondents had voluntarily submitted their resignation and now such submission is being denied. It is for them to substantiate such non-submission. He would further submit that the private respondents had not reported for duty from 11.04.2009, and they had raised an industrial dispute and had also filed a petition before the Conciliation officer. In the said petition, they have claimed that they have not been paid increased salary, increment along with other benefits. The private respondents had also specifically stated that if the Management are willing to settle the dues, then they should also pay compensation. Therefore, it is the intention of the private respondents is to go back on the resignation that they had voluntarily submitted. The said petition had been filed by them on 24.04.2009. If it is the case of the private respondents that after 11.04.2009, they have been denied duty, it is for them atleast to call upon the Management to give them continuous employment before approaching the conciliation officer. But however,

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having submitted a resignation on 21.04.2009, which was accepted by the petitioner company and to wriggle out such a submission of voluntary resignation that they had immediately approached the conciliation officer raising an industrial dispute. This contention of the private respondents would itself prove that they had submitted their resignation. It is also pertinent to note that another employee, who had joined with the private respondents, had accepted the settlement that had been arrived at before the conciliation officer as claimed by him in the petition, but these private respondents wanted a higher share of compensation, which the Management had refused and therefore, he would seek this Court to interfere with the common award passed by the Labour Court.

6.I have heard the learned counsel appearing for the petitioner company and perused the materials placed on record.

7.The employment of the private respondents had been admitted

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by the petitioner company. The dispute is as to whether the private respondents had voluntarily submitted their resignation or was such resignation letter had been filled up by the petitioner on the blank papers given to them at the time of appointment.

8.It is the case of the private respondents that the Management had obtained signatures in blank papers even in the reply statement filed to the objections of the petitioner before the conciliation officer. The private respondents had indicated that such signatures in the blank papers had obtained. The said statement made by the private respondents is very a bald statement without even indicating the time or the date or the circumstances under which signature in blank papers had been obtained by the Management. Further the case of the private respondents is that they were denied employment on 11.04.2009, there is no statement in the claim statement or in the petition filed before the conciliation officer that after 11.04.2009, the private respondents had approached the petitioner company to grant them employment. It is

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also very surprising that without approaching so, the private respondents had approached the conciliation officer by contending that they had been denied employment on their rightful claim of higher salary. This only draw me to a conclusion that the private respondents had made a demand on 11.04.2009, for higher salary and had absented themselves for duty and on 21.04.2009, they had submitted their resignation only to threaten the Management and did not expect the Management to accept the resignation and therefore they had approached the conciliation officer immediately on 24.04.2009, within 3 days on submitting their resignation and the same had been accepted by the Management.

9. When that being so, the Labour Court had wrongly come to a conclusion that the Management had not settled the dues of the private respondents, in spite of their resignation. From the sequence of events, it could be seen that there were only two working days between 21.04.2009 and 24.04.2009. Since the private respondents had

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approached the conciliation officer, the petitioner would not have had a chance to make a settlement, pursuant to their resignations, as they had raised a dispute. Therefore, I am of the view that the findings arrived at by the Labour Court that the non-payment of settlement itself would show that the private respondents had not submitted their resignation voluntarily, is perverse.

10.Further the Tribunal had concluded the issue that the private respondents had worked for 240 days. A reading of the award does not envisage any reasons that had been attributed by the Tribunal to come to such a finding that the private respondents have worked for more than 240 days.

11.The Tribunal had also given a finding that even though the letters of resignation had been addressed to the Manager, MW1 had admitted in his evidence that there was no post of Manager in the company. Therefore, it had given a finding that the resignation letters

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were a bogus, which had created by the petitioner company. This findings according to me is also perverse for the simple reason that if it was a document was created by the petitioner company, they would have definitely addressed it to an officer, who was empowered to receive such letter. Further, MW1 had categorically admitted that such letter had been given to him and he had received the letter and placed it before the Director for approval on the same day. Such was categorically evidence by MW1, which has not been controverted by the private respondents.

12. Therefore, I am of the view that the letters of resignation marked as Exhibit M10 & M11 have been voluntarily submitted by the private respondents and therefore, they are not entitled to raise an industrial dispute, as if they have been denied duty.

13. For the foregoing reasons, I am inclined to interfere with the

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common award passed by the first respondent.

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14. In fine, the award passed by the first respondent is set aside and the Writ Petitions are allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Speaking order : Yes/No
Neutral Citations : Yes/No

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K.KUMARESH BABU,J.

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