



W.P.No.28029 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.28029 of 2008

and

M.P.No.1 of 2008

P.Perinbaraj

... Petitioner

Vs.

1.The Management of Sri Sivagami
Transport, 14, Adiappagramini Street,
Royapuram, Chennai – 600 013.

2.The Presiding Officer,
II Additional Labour Court,
Chennai – 104.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the award dated 29.01.2008 made in I.D.No.540 of 2004 by the II Additional Labour Court, Chennai, the 2nd respondent herein, and quash that portion of the Award granting Rs.20,000/- towards backwages and directing the 1st respondent to pay and order the payment of backwages for the entire period till reinstatement.

For Petitioner : Mr.K.V.Ananthakrishnan

For R1 : No appearance

R2 : Court



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ORDER

This writ petition is filed challenging the Award of the Labour Court, Chennai, in I.D.No.540 of 2004, dated 29.01.2008.

2.The writ petitioner is an employee who was working as a Driver in the 1st respondent which is a Transport Company. The petitioner raised an Industrial Dispute in I.D.No.540 of 2004 alleging oral termination on 29.05.2004. It is the specific case of the writ petitioner that no enquiry was conducted for the petitioner's misconduct and therefore, the termination of petitioner from service is illegal, void and unfair. It is further contended that the writ petitioner approached the 1st respondent on many occasions and that the 1st respondent did not bother to give employment to the petitioner. The petitioner also stated that he was not employed gainfully anywhere during the period of non-employment and therefore, prayed before the Labour Court that the order of termination should be set aside and that the 1st respondent should be directed to reinstate the petitioner in service with backwages, continuity of service and other attendant benefits.



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3. Though the petitioner was directed to be reinstated in service with continuity of service and other attendant benefits, the Labour Court awarded a sum of Rs.20,000/- as backwages for the period of unemployment. Against the quantum that was awarded by the Labour Court by way of backwages, the petitioner has filed the above writ petition.

4. Despite a counsel being engaged by the 1st respondent, there is no representation on behalf of the 1st respondent Management.

5. Learned counsel appearing for the petitioner stated that the Labour Court, though found that the petitioner is entitled to backwages, awarded only a sum of Rs.20,000/- without assigning any reason for arriving at such a low sum. Learned counsel also stated that the Management did not let in any evidence before the Labour Court and the Labour Court ought to have allowed the backwages for the petitioner for the entire period of four years during which he was kept out of employment due to illegal termination. Since the Labour Court has not given proper reasons to deny the backwages for the period of unemployment, the learned counsel submitted that the order of Labour Court is liable to be set aside.



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6.The petitioner was employed as a Driver in the 1st respondent Company. It is the case of the petitioner that he was drawing a monthly salary of Rs.3,000/- when he was in employment under the 1st respondent. It is his case that he was orally terminated from service with effect from 29.05.2004. Before the Labour Court, the 1st respondent denied the case of petitioner and stated that the petitioner was not at all employed by the 1st respondent and also denied the monthly wages as Rs.3,000/-. Since it is stated that the petitioner was never engaged by the Management, a specific stand has been taken by the Management that there was no termination and that therefore, there is no requirement for any statutory notice or enquiry as alleged by the petitioner before the Labour Court.

7.The Labour Court has not framed an issue whether the petitioner was an employee of 1st respondent. It is only on the basis of oral evidence of petitioner, the Labour Court accepted the version of petitioner that he was also employed as a Trailer Driver under the 1st respondent. The Labour Court has found that there are discrepancies in the evidence of the petitioner and the documents produced by him to show the identity of the petitioner as a person working under the 1st respondent. Having regard to the factual



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findings and the attending circumstances and the salary of petitioner as on the date of alleged termination, this Court finds that the sum of Rs.20,000/- as backwages is reasonable amount and there is no substantial injury that is caused to the petitioner. As a Trailer Driver, the petitioner might have been gainfully employed elsewhere. Nature of employment shows that there is always requirement of Truck or Trailer Drivers in the market. This Court is convinced that the Labour Court has not transgressed any settled law and passed an Award which is unfair or perverse.

8.This Court finds no merit in this writ petition and hence, **this writ petition is dismissed.** No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

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Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

The Presiding Officer,
II Additional Labour Court,
Chennai – 104.



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S.S. SUNDAR, J.

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