



W.P.No.33292 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2023

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.33292 of 2004

The Management of Kallakurichi
Co.Op. Sugar Mills Ltd.,
Reptd. by its Special Officer

... Petitioner

Vs.

1.E.Krishnamurthy (Deceased)

2.The Presiding Officer,
Labour Court,
Cuddalore.

3.K.Nirmalakumari

4.S.Sujatha

5.G.Suhashini

(R3 to R5 substituted as LR's of
deceased first respondent vide
order dated 12.01.2023 made
in WMP.159/2023 in
WP.33292/2004 by JNB)

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the second
respondent relating to impugned Award dated 16.08.2004 made in
I.D.No.43 of 2003 and quash the same.



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For Petitioner : Mr.A.S.Thambuswamy
For Respondents : Mr.T.Dhanyakumar for R1, R3 to R5
R2 – Court

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the second respondent relating to impugned award dated 16.08.2004 made in I.D.No.43 of 2003 and to quash the same.

2.The case of the petitioner is that the first respondent was working as Junior Assistant in the petitioner Management and since he was in the habit of absenting from duty without obtaining prior permission or submitting leave application, a charge memo dated 23.11.2001 was issued to him. The first respondent submitted his explanation on 01.12.2001 and since the same was not satisfactory, domestic enquiry was ordered and vide order of the petitioner dated 23.04.2002, the first respondent was dismissed from service. Aggrieved by the same, the first respondent raised industrial dispute in I.D.No.43 of 2003 before the second respondent, pursuant to which, the impugned award was passed. Hence, this writ petition.



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3.The learned counsel for the petitioner submitted that after conducting fair enquiry only the first respondent was dismissed from service, however, the second respondent, without considering the fact that the first respondent is in the habit of absenting from duty without obtaining prior permission and without considering the earlier punishments suffered by the first respondent, passed the impugned award ordering reinstatement with continuity of service and back wages, which is not sustainable one.

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

5.Since the first respondent had absented from duty from 20.10.2001 to 30.10.2001 and from 06.11.2001 to 15.11.2001, charge memo was issued to him and after domestic enquiry, vide order of the petitioner dated 23.04.2002, the first respondent was dismissed from service. Thereafter the first respondent raised industrial dispute in I.D.No.43 of 2003 before the second respondent, pursuant to which, the impugned award has been passed.



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6.Perusal of impugned award reveals that since the first respondent suffered from severe fever and blood pressure, he had sought for leave through telephone on 20.10.2001. Since his condition was even more severe on 21.10.2001 (Sunday) and 22.10.2001 (Monday), he met the Doctor and on Doctor's advice, he sought for leave till 24.10.2001 through telegram and since his body condition did not become normal, the first respondent extended the leave till 27.10.2001 and again extended the leave till 30.10.2001 and sent the leave letter through post and thereafter joined duty on 31.10.2001. Since he suffered from fever again from 06.11.2001, he sent the leave letter seeking medical leave from 06.11.2001 to 15.11.2001 through post along with medical certificate.

7.The second respondent/ Labour Court after careful consideration of the documents submitted by the petitioner as well as the first respondent has observed that the copy of the medical certificate marked as exhibit by the petitioner shows that the Doctor has advised the first respondent to take rest from 20.10.2001 to 30.10.2001 since he was suffering from severe fever and blood pressure and has further observed that nothing has been produced by



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the petitioner to reject the statement of the first respondent that he suffered severe fever even thereafter and has further observed that the chance for it also could not be rejected.

8.The second respondent/ Labour Court has further observed that the first respondent has sent the leave letter seeking medical leave from 06.11.2001 to 15.11.2001 through post along with medical certificate and the same has been received by the petitioner on 09.11.2001 and has also observed that there is no possibility to get prior permission for taking medical leave and it cannot be construed that the first respondent has taken leave without proper leave letter.

9.The second respondent/ Labour Court has further observed that the medical certificate proves that the first respondent had suffered illness during the subject period and hence it was necessary for him to take leave and concluded that the order of dismissal dated 23.04.2002 issued to the first respondent is not in accordance with law and set aside the same and directed the petitioner to reinstate the first respondent with continuity of service, backwages and other attendant benefits.



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J.NISHA BANU,J.

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10.From the above, it is clear that the order of the Labour Court is well founded and the interference of this Court is not necessary. Accordingly, the writ petition stands dismissed. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Presiding Officer,
Labour Court,
Cuddalore.

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