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W.P. No.10189 of 2018

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 01.09.2023**

**CORAM**

**THE HON'BLE MR. JUSTICE M.DHANDAPANI**

**W.P. No.10189 of 2018**

T.Suresh

...Petitioner

Vs

1. The Management of Suja Employees Anciliaries,  
S.Villiyannallur,  
Kuthalam Taluk,  
Nagapattinam District.

2. The Presiding Officer,  
Labour Court, Cuddalore.

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari to call for the records in the impugned order of the second respondent in ID.No.12/2016 dated 27.12.2017 and quash the same.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr.P.Nehru R1  
R2 Labour Court

**ORDER**

This petition has been filed seeking to quash the impugned order of the second respondent in ID.No.12/2016 dated 27.12.2017.



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2. It is the case of the petitioner that the petitioner was employed with the first respondent from 01.04.2006 and he was terminated orally from service on 14.09.2015 without even issue of any charge memo. On 22.07.2015, the petitioner requested leave of absence from 23.07.2015 till 25.07.2015 due to personal work. In the said period, the petitioner was implicated in a criminal case which led to his incarceration till 10.08.2015 and after that he had to comply with the bail conditions. When the petitioner approached the first respondent, he was informed that he was dismissed from service. No domestic enquiry was conducted and the petitioner approached the Labour Officer and there it was intimated that the petitioner was not dismissed but had deserted from service and thereafter a failure report was sent by the Labour Officer after which the petitioner preferred a petition in ID No.12/2016 before the Labour Court and the same came to be dismissed on 27.12.2017. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submitted that admittedly the petitioner entered into service in the year 2006. In the year 2015, he was implicated in the criminal case. Taking advantage of the criminal case, the petitioner was terminated from service, which is against law and the same is unsustainable one.



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4. Per contra, the learned counsel for the first respondent submitted that in view of the criminal case, he was not attend duty from 23.07.2015 to 25.07.2015 without any prior information. The respondent Management has sent letters dated 04.08.2015 and 12.08.2015 to join the duty and the same was returned as "left without intimation". It came to know that the petitioner was in jail from 26.07.2015 to 10.08.2015. Therefore, order of termination by the first respondent in perfectly in order and the same cannot be interfered with.

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

6. The facts of the case are not in dispute. Admittedly the petitioner workmen entered into service in the year 2006. However, he fairly admitted that he involved in the criminal case and he was in jail from 23.07.2015 and he was granted bail on 14.09.2015. Thereafter, the petitioner approached the first respondent to join duty. The first respondent has orally terminated him from service. Before the Labour Court, the respondent had withdrawn the said termination order as against the petitioner and they were ready to take back him into service. After lapse of seven years, the respondent employer submitted that



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the respondent company is not in good shape. Admittedly, when the person is involved in criminal case and the same had come to knowledge only at the time of trial and prior to that the petitioner has not informed to the management, even then, the respondent has accepted the petitioner to join duty. However, the petitioner employee has not deliberately joined duty.

7. Considering the facts and circumstances of the case, the petitioner was the employee of the first respondent and he involved in the criminal case and subsequently, it was ended in acquittal, the respondent has submitted before the Labour Court that they were ready to take back the petitioner for employment. However, now the respondent has submitted that the company is no in good shape. In such circumstances, considering the overall circumstances of the case, this Court deserves that modification of the order is necessary. Therefore, instead of directing the management to employ the workman afresh, the respondent management could be directed to pay a sum of Rs.2,50,000/- to the petitioner as compensation towards full quit.

8. Accordingly, this Court directs the first respondent to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs fifty thousand only) towards full quit as compensation to the petitioner within a period of four weeks from the date of



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receipt of a copy of this order.

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9. With the above direction, the writ petition is disposed of. No costs.

01.09.2023

*Rli*

Index: Yes/No

NCS : Yes/No

To

The Presiding Officer,  
Labour Court, Cuddalore.



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**M.DHANDAPANI, J.**

*Rli*

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