



W.P.No.25457 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.25457 of 2005

V.Srinivasan

... Petitioner

-Vs-

1. The Principal Labour Court,
represented by its Presiding Officer,
City Civil Court Annex Building,
High Court Compound,
Chennai-600 104.

2. The Management of Sri Aero Cool,
46, Josiar Street,
Nungambakkam,
Chennai-600 034.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the first respondent of the Award dated 17.09.2004 passed in I.D.No.859 of 1991 by the Principal Labour Court at Chennai, rejecting the petitioner's contentions of reinstatement with continuity in service and back wages under the second respondent and to quash the same.



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For Petitioner : Mr.Siddharth Bahety
R1 : Court
For R2 : Mr.Ramasamy Meyappan
for M/s R.Charubala

ORDER

This writ petition has been filed challenging the Award passed by the first respondent dated 17.09.2004 in I.D.No.859 of 1991, thereby rejected the petitioner's Industrial Dispute.

2. Heard the learned counsel for the petitioner and the learned counsel for the second respondent and perused the materials available on record.

3. The case of the petitioner is that the petitioner was employed as a Mechanic under the second respondent and he was assigned to do the work of repairing Air Conditioners, Water Coolers, etc. He was a skilled worker and he was paid monthly salary. He was employed from 01.05.1986. While being so, on 18.10.1990, he was retrenched from service under the oral instructions, without any prior notice, as statutorily required and that too without paying any retrenchment compensation. Therefore, he raised an Industrial Dispute. On failure of the conciliation



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proceedings, he preferred an Industrial Dispute before the first respondent. It was dismissed, on the ground that the petitioner failed to prove his claim. Hence, this present writ petition.

4. The learned counsel for the petitioner would submit that though the petitioner was engaged as a Trainee, he is still a workman as contemplated under Section 2(s) of the Industrial Disputes Act, Section 2(1) of the Factories Act, Section 2 of the Tamil Nadu Shops and Establishment Act, Section 2(aa) of the Apprentices Act. He had gained experience for more than four years. Therefore, he had become a skilled workman. The petitioner also produced Service Report from various concerns in order to prove his employment under the second respondent. Further, the Labour Court held that the petitioner failed to prove his age. Even assuming that the petitioner was a minor at the time of his engagement, he was retrenched from service only in the month of September, 1990. Therefore, non proving of the age of the petitioner has no relevance.

5. A perusal of records revealed that at the age of 15 that too without any prior experience, the petitioner was taken as a Trainee, at the



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request of his father, by the second respondent. He was paid only stipend. Thereafter, the petitioner failed to show any interest in learning the work and he was also irregular in attendance. Though he was given several opportunities, he failed to correct himself. The Mechanics who were responsible for training him complained to the second respondent that the petitioner was not co-operative and showed no interest in learning. Further, there was no employer-employee relationship between the petitioner and the second respondent, since he was only a Trainee and not a worker as defined in the Industrial Disputes Act. A Trainee is not defined under any Act as contended by the learned counsel for the petitioner. That apart, he was paid only stipend and he was not paid any salary. Though the petitioner had taken a specific stand that he was employed under the second respondent, he failed to produce any document to show that he was employed by the second respondent that too for a monthly salary. In order to disengage the service of a Trainee, the second respondent ought not to have conducted an enquiry or serve notice or pass any termination order.

6. Therefore, the first respondent had rightly rejected the claim of



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the petitioner and this Court finds no perversity in the order passed by the first respondent in I.D.No.859 of 1991 dated 17.09.2004 and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

12.09.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

mn

To

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2. The Management of Sri Aero Cool,
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