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W.A.No. 809 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR JUSTICE K.RAJASEKAR

W.A. No. 809 of 2023

K. Naresh

..Appellant

Vs.

1. The Presiding Officer,
Central Government Industrial Tribunal
cum Labour Court,
Shastri Bhavan, Chennai – 600 006.

2. Executive Director,
Bharat Heavy Electricals,
Tiruchirapalli – 620 014.

..Respondents

Prayer: Writ Appeal as against the order dated 23.10.2019 passed in

W.P. No. 32506 of 2015.

For Appellant :: Mr.S.Sivakumar

For Respondents :: Mr.Anand Gopalan for
M/s.T.S. Gopalan &Co
for R2



W.A.No. 809 of 2023

J U D G M E N T

(Delivered by S. Vaidyanathan,J.)

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The present appeal has been preferred as against the order dated 23.10.2019 passed in W.P. No. 32506 of 2015.

2. The appellant/writ petitioner was appointed as DR Artisan (Temporary Cadre) in Bharat Heavy Electricals Limited and he was appointed in the said post with effect from 05.02.2009 by office order dated 17.02.2009. On successful completion of his temporary service on daily rated basis, he was appointed on consolidated wages by order dated 24.09.2009. When the appellant/writ petitioner was working on consolidated salary as a temporary employee, charge sheet dated 30.10.2010 was issued stating that the experience certificate produced by the appellant/writ petitioner employee, which was claimed to be issued by M/s V.K.N Enterprises was not a genuine one and the signatory of the certificate was also not an authorised person of the firm to issue such a certificate. The appellant/writ petitioner submitted his explanation, which was found to be not satisfactory, resulting in a domestic enquiry. The Enquiry Officer submitted his report holding that the charges were proved, based on which the appellant was dismissed from service by proceedings dated 18.10.2010.



W.A.No. 809 of 2023

3. Challenging his dismissal, the appellant/writ petitioner raised an industrial dispute, which was taken on file by the Industrial Tribunal cum Labour Court as I.D. No. 77 of 2013. The Labour Court found that during enquiry proceedings, the employee had admitted and even produced a document showing that he had actually worked not under M/s.V.K.N. Enterprises but was working with a Contractor of the said Enterprises. Therefore, when the experience certificate produced by the employee purported to be that of M/s. V.K.N. Enterprises was found to be not genuine, which was also proved by the employee's own admission, by award dated 25.08.2014, the Labour Court dismissed the industrial dispute confirming the order of dismissal. Challenging the same, the employee filed the writ petition, which also came to be rejected by the order under challenge. Hence, the present intra court appeal.

4. Heard the learned counsel for the appellant and the learned counsel for the 2nd respondent.

5. From a perusal of the award of the Labour Court, it is seen that the Labour Court has rendered a categorical finding that M/s. V.K.N Enterprises did not issue any experience certificate to the appellant/employee



W.A.No. 809 of 2023

on the basis of which the employee had claimed relaxation in age for getting appointment with the 2nd respondent Management. The Labour Court further observed that during enquiry proceedings, by the employee's own document, it was evident that he had actually worked not directly under M/s.V.K.N. Enterprises but was working with a Contractor of M/s.V.K.N. Enterprises, namely Arivalan Contracts. The relevant portion of the award of the Labour Court read hereunder:

“11.....The Enquiry Officer has taken into account the fact that the petitioner has submitted before him that he has worked on sub-contract of M/s. VKN Enterprises. The Enquiry Officer has referred to a document produced by the petitioner indicating that he has actually worked with one Arivalan Contracts which was the Contractor of M/s. VKN Enterprises.

12.During the enquiry proceedings the petitioner has admitted and even produced a document showing that he has actually worked not directly under VKN Enterprises but was working with a Contractor of VKN Enterprises only. However, there is no reference to this in Ext.M8 at all. If the petitioner was actually working under some other concern, it was not proper on his part to furnish an experience certificate purported to be that of VKN Enterprises putting forth a claim that he was working with M/s VKN



W.A.No. 809 of 2023

WEB COPY

Enterprises as its direct employee. From the very admission given by the petitioner, it is clear that the certificate is a false one. Ext.M13 is the reply from M/s. VKN Enterprises stating that they did not issue the certificate in question. In view of the admission of the petitioner that he did not work with VKN Enterprises but under another establishment, the non-examination of the authority who gave Ext.M13 letter is not of any consequence. Even otherwise, by the admission of the petitioner, it is proved that the certificate is not genuine.”

6. Though it was contended on behalf of the appellant that no false certificate was produced and that the appellant/employee had revealed the fact that he was employed with a contractor of M/s.V.K.N. Enterprises, but the experience certificate was signed by an officer of M/s. V.K.N. Enterprises, the same was refuted by the Management stating that the officer, who signed the certificate was not an authorised signatory of M/s. V.K.N. Enterprises and it was a fake certificate. Further, Ex.M13, a letter written by the Manager of M/s.V.K.N Enterprises would reveal that they did not issue the certificate in question. The Labour Court has rendered a categorical finding that when the employee was actually working in some other concern, it was not proper on his part to furnish a certificate



WEB COPY



W.A.No. 809 of 2023

S. VAIDYANATHAN,J.

AND

K. RAJASEKAR,J.

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purported to have been issued by M/s. V.K.N Enterprises. When the Labour Court has rendered a finding of fact that the experience certificate produced by the appellant was not a genuine one based on evidence, in the light of the judgment dated 28.03.2023 of this Court in W.A. No. 962 of 2022 (*The Chief General Manager, Indian Overseas Bank and another V. G. Anbukili*), we are not inclined to accept the case of the appellant and the award of the Labour Court as confirmed by the learned Single Judge is confirmed and the writ appeal is dismissed. No costs.

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(S.V.N.J.) (K.R.S.J.)
16.06.2023

To

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Central Government Industrial Tribunal
cum Labour Court,
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2. Executive Director,
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