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W.P.No.4775 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.4775 of 2010

K.G.Ravichandran

...Petitioner

-Vs-

1.The Presiding Officer,
Additional Labour Court,
Vellore,
Vellore District.

2.The Management,
M/s.Ultra Marine &
Pigments Ltd.,
Plot No.25B,
Industrial Estate,
Ranipet,
Vellore District.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records pertaining to the award dated 14.12.2009 passed in I.D.No.244/2008, dismissing the petitioner's Industrial Dispute and declining to grant the petitioner any relief, quash the same and consequently direct the 2nd respondent to reinstate the petitioner, with continuity of service, backwages and all other attendant benefits, award costs.



W.P.No.4775 of 2010

WEB COPY

For Petitioner : M/s.V.Porkodi
For R1 : Labour Court
For R2 : Mr.Anand Gopalan
for M/s.T.S.Gopalan & Co.

ORDER

This writ petition is filed by the workman as against the Award dated 14.12.2009 passed by the 1st respondent/Labour Court, Vellore in I.D.No.244 of 2008.

2.The petitioner states that he was employed as a Casual Labour Supervisor and was engaged as an Attritor Operator in the 2nd respondent/Management and he was designated as Junior Shift Supervisor. It is the case of the petitioner that he was paid once in a month on a daily rate basis, and his last drawn salary was Rs.1,800/- per month. It is the case of petitioner that he was denied employment from 09.03.2001.

3.It is admitted by the petitioner that he filed a petition before the Conciliation Officer who gave his failure report on 13.08.2001. However, the petitioner raised a dispute before the Labour Court in I.D.No.244 of 2008, nearly 8 years after the alleged non-employment. The case of the petitioner



W.P.No.4775 of 2010

before the Labour Court that he was denied employment from 09.03.2001 was specifically denied by the Management.

4.A Counter Affidavit was filed by the 2nd respondent/Management before the Labour Court. It is the case of 2nd respondent that the petitioner stopped reporting to work after abusing another employee on 08.03.2009.

5.It is the specific case of the 2nd respondent/Management, that the petitioner was engaged as a Casual Supervisor on daily wage basis and that he did not work for 240 days in a period of 12 months prior to March 2001. The Labour Court found that the petitioner is not a workman, and he failed to produce any single piece of evidence like appointment order, salary receipt or any other document to show that he had worked for 240 days in a calendar year. It was observed by the Labour Court that the learned Authorised Representative of the petitioner was not in a position to explain why the petitioner has not rejoined duty when the same was offered by the 2nd respondent/Management even before the Labour Officer. The petition filed by the petitioner workman was dismissed by the Labour Court on merits, referring to a letter asking the petitioner to report duty.



W.P.No.4775 of 2010

WEB COPY

6.The present writ petition is filed by the petitioner challenging the order of the Labour Court mainly on the ground that the 2nd respondent/Management has not proved the letter. The service of letter dated 03.04.2001 sent by the 2nd respondent/Management to the petitioner under a certificate of posting is accepted by Labour Court.

7.It is the case of the petitioner that he wrote a letter dated 23.03.2001 to the 2nd respondent/Management requesting to provide employment. It is stated that the 2nd respondent/Management relied on a letter dated 03.04.2001 asking the petitioner to join duty as he was not stopped from attending work. The petitioner, after the alleged non-employment in 2001, waited nearly 8 years and filed a petition for reinstatement with continuity of service, backwages, and all other attendant benefits without any proof to show that he had worked for 240 days prior to the alleged non-employment.

8.The learned counsel appearing for the 2nd respondent/Management has relied upon a judgment of the Hon'ble Supreme Court in the case of



W.P.No.4775 of 2010

R.M.Yellathi Vs. Assistant Executive Engineer, reported in ***(2006) 1 SCC 106***,

WEB COPY

wherein the Hon'ble Supreme Court has not only considered the scope of interference with the factual findings of the Labour Court but also held that the burden lies on the workman by adducing cogent evidence, to prove that he had worked for 240 days in a year.

9.Heard the rival submissions made by the learned counsel on either side and perused the materials available on record.

10.The Labour Court has rendered a finding that the petitioner is not a workman as he failed establish his continuous employment for 240 days in a year.

11.Having regard to the facts established before Labour Court, the petition filed by the petitioner with an inordinate and unexplained delay of 8 years cannot be entertained. This Court is unable to interfere with the Award of the Labour Court dismissing the petition giving reason supported by evidence. The learned counsel for the petitioner has not pointed out irregularity in the findings.



W.P.No.4775 of 2010

WEB COPY

12.As a result, this writ petition stands dismissed and the order of the 1st respondent/Labour Court in I.D.No.244 of 2008 dated 14.12.2009 is confirmed.

No costs.

23.02.2023

cda

Index : Yes/No



WEB COPY



W.P.No.4775 of 2010

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