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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.06.2023

CORAM

**THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN**

**W.P.No. 27134 of 2013**

**And**

**M.P.No. 1 of 2013**

R.Shanmugavelu

... Petitioner

**..Vs..**

1. The Presiding Officer  
II Additional Labour Court,  
High Court Campus, Chennai.

2. S.Naina Mohamed

... Respondents

**PRAYER:** Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari to call for the records relating to the award passed by the first respondent on 01.10.2012 in I.D.No. 372 of 2006 on the file of II Additional Labour Court, Chennai and quash the same.

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For Petitioner

:: Ms. Yogalakshmi

For 2<sup>nd</sup> Respondent

:: Mr.K.V.Ananthakrishnan

**ORDER**

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The second respondent joined the service of the writ petitioner as a Machine Operator on 03.12.2001. The petitioner would stated that on 06.01.2001, the second respondent had orally requested for leave but he was terminated orally by the writ petitioner. According to him, no enquiry was conducted and no show cause notice was given nor any enquiry was conducted. Being left with no other option, the petitioner raised industrial dispute. The industrial dispute had taken on file as I.D.No. 372 of 2006. It ended in an award on 01.10.2012. As per the award, the Labour Court denied him reinstatement but granted him compensation of Rs.2,00,000/-. Challenging the same, the present Writ Petition has been filed.

2. Ms.S.Yoga Lakshmi, the learned counsel appearing for the petitioner would contend that the petitioner had filed a false case and he was preventing from reporting duty on 06.01.2006, whereas he continued to perform his duties till 13.01.2006. According to her, this militates against the case of the second respondent that he was prevented from joining duty on 06.01.2006. She would state that the compensation amount of Rs.2,00,000/- is excessive as the second respondent had worked with the petitioner only for a period of 5 years. She would further state that even in that period for 5 years, he



has taken several holidays and has not diligent worker. She would argue that on 21.01.2006, a letter was sent by the writ petitioner to the second respondent calling upon him to report for duty and despite notice, he did not report for duty and therefore, it should be treated as abundant on service.

**3.** Mr.K.V.Ananthakrishnan, learned counsel appearing for the second respondent would submit that these are matters, which have already been gone into the Labour Court and found against the petitioner and that the award does not require any interference.

**4.** I have carefully considered the arguments on either side. I have gone through the pleadings and the records.

**5.** There is no dispute that the second respondent joined the management of the petitioner on 03.12.2001 on a monthly salary of Rs.4,350/-. His employment was that of a Machine Operator. Though the learned counsel for the petitioner would argue that notice was sent under Ex.M-2 to the second respondent calling upon him to report for duty, but unfortunate for her, no acknowledgment has been filed before the Labour Court.



6. The Labour Court has rightly come to the conclusion that an absence of any acknowledgment, the document under Ex.M-2 should be treated as one prepared for the purpose of the case. It is not in dispute before the Labour Court that second respondent had employed with the petitioner as permanent employee. The second respondent would be entitled the protection under Section 25(F) of the Industrial Disputes Act. The procedure ought to have been followed, but was not followed in the present case. Therefore, the petitioner has to suffer the consequence of the said Act. The award of the Labour Court in so far as the setting aside the order of dismissal is confirmed. Turning to the grant of compensation of Rs.2,00,000/-, I feel that a period of having work for 5 years, directing him to pay compensation for Rs.2,00,000/- would be excessive and therefore, I am inclined to reduce the amount of compensation awarded from Rs.2,00,000/- to Rs.1,00,000/-.

7. The petitioner has deposited the said sum with the Labour Court and out of this 50% has already been permitted to be withdrawn by the second respondent. Consequently, the second respondent is permitted to withdraw the balance sum of Rs.50,000/- and that has been deposited by the



writ petitioner to the credit of I.D.No. 372 of 2006. In case, there is any accrued interest, that too would go to the second respondent.

8. With the above modification, this Writ Petition stands partly allowed and in all other respects, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.06.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

**V. LAKSHMINARAYANAN, J.,**



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6



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