



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.8193 of 2019
and
W.M.P.No.8754 of 2019

The Manager,
District Supply and Marketing Society,
Yelagiri Hall, Anna Salai,
Vellore - 632 001.

... Petitioner

Vs.

1.The Project Officer,
District Rural Development Agency,
Vellore.

2.The Project Officer,
Corporation for Development of Women,
Yelagiri Hall, Anna Salai,
Vellore.

3.R.Shanmugam

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the Award dated 30.11.2018 in I.D.No.4/2018 on the file of the Principal Labour Court, Vellore and quash the same.

Page 1 of 8



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

WEB COPY

For Petitioner : Mr.G.Mutharasu
For RR1 to 3 : No appearance

ORDER

The third respondent is an Ex-serviceman. He was appointed as a Night Watchman in the writ petitioner society vide proceedings dated 21.05.2007 in Na.Ka.No.௭4/1891/07 of the first respondent. He had put in 10 years of continuous service. Since he was denied employment with effect from 22.03.2017 by the writ petitioner Management, he raised an Industrial Dispute before the Presiding Officer, Principal Labour Court, Vellore in I.D.No.4/2018 under Section 2A (2) of the Industrial Disputes Act.

2.The Labour Court after analysing the evidence on record partly allowed the petition and directed the present writ petitioner Management to reinstate the third respondent into service with continuity of service and with all attendant benefits. However, his prayer for backwages was denied by the Labour Court on the ground that the third



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

WEB COPY

respondent had failed to prove that he was not gainfully employed elsewhere. Aggrieved over the order of reinstatement of the workman, the Management has filed the present writ petition.

3.Mr.G.Mutharasu, learned counsel for the writ petitioner would contend that the third respondent was appointed only on a temporary basis and therefore he is not a permanent employee of the writ petitioner Management. According to him, the third respondent used to come to duty without wearing proper uniform and also did not follow the instructions of his higher officials. He further contended that the third respondent unauthorizedly absented himself from 22.03.2017 onwards and therefore a show cause notice was issued to the third respondent and he sent an explanation dated 18.04.2017, subsequent to which, the first respondent sent the third respondent to his parent department. The learned counsel for the petitioner management would further contend that in the said circumstances the Award passed by the Industrial Tribunal directing the writ petitioner Management to reinstate the third respondent into service with continuity of service and with all other attendant



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

benefits is totally erroneous.

4. No representation on behalf of the respondents.

5. It is seen from the records that the third respondent was temporarily appointed as Night Watchman on 21.05.2007 and subsequently, on 12.05.2008, he was transferred to some other branch by an order of the District Collector, Vellore. The contention of the writ petitioner Management is that the third respondent unauthorisedly absented himself from attending duty since 22.03.2017 and in this regard, a memo was also issued to him on 06.04.2017. In fact, the third respondent submitted his explanation dated 18.04.2017 in which he had stated that he was denied employment by the writ petitioner Management with effect from 22.03.2017. Without conducting any enquiry, the writ petitioner Management seems to have denied employment to the third respondent. It is also seen from the records that the writ petitioner Management has neither accepted the explanation submitted by the third respondent nor rejected the same. In this regard, the contention of the



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

WEB COPY

learned counsel for the writ petitioner is that subsequent to the explanation submitted by the third respondent, he was sent back to his parent department vide orders dated 21.04.2017.

6.At this juncture, it is pertinent to point out that the orders dated 21.04.2017 was not marked as an exhibit before the Labour Court. It is settled law that the documents which are not marked before the Labour Court cannot be taken into consideration by this Court while invoking Article 226 of the Constitution of India. Moreover, there are several corrections and interpolations in the proceedings dated 21.04.2017 in Na.Ka.No.191/306/2016. Therefore, it cannot be relied upon for any purpose. The Labour Court after analysing the evidence on record had pass a well reasoned order and it is also clear from the records that the allegations of denial of employment has not at all been properly explained by the writ petitioner Management. In these circumstances, I do not see any reason to interfere with the orders passed by the Labour Court.



WEB COPY



W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019

7. Accordingly, this Writ Petition is dismissed. The Award dated 30.11.2018 in I.D.No.4/2018 on the file of the Principal Labour Court, Vellore, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

07.12.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

1. The Project Officer,
District Rural Development Agency,
Vellore.

2. The Project Officer,
Corporation for Development of Women,
Yelagiri Hall, Anna Salai,
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WEB COPY



W.P.No.8193 of 2019
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R. HEMALATHA, J.

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W.P.No.8193 of 2019
and W.M.P.No.8754 of 2019