



W.P. No.9248 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.8254 of 2023

and

W.M.P.Nos.8462 and 16724 of 2023

C.Vinayagamoorthy

... Petitioner

-vs-

The Management
Midrange Components India (P) Ltd.
No.42, Banavaram Salai,
Melvenkatapuram Village,
Perunkanchi Post, Sholinghur,
Vellore District-631 102.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the preliminary order dated 08.12.2022 passed by the Learned Principal Labour Court Vellore in ID No. 9/2019 quash the same and consequently direct the Principal Labour Court Vellore to decide the fairness of enquiry alone as a preliminary issue afresh.

For Petitioners : M/s.V.Porkodi

For Respondents : Mr. S.Ravindran, S.C.
For M/s.S.Bazeer Ahamed



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ORDER

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The petition has been filed seeking to quash the preliminary order dated 08.12.2022 passed by the Learned Principal Labour Court, Vellore in ID No.9/2019 and consequently, direct the Principal Labour Court, Vellore to decide the fairness of enquiry alone as a preliminary issue afresh.

2. It is the case of the petitioner that the petitioner joined the service of the respondent Management as a temporary machine operator on 23.05.1992 and in the year 1998, he was transferred to another unit and made as permanent employee. Such being the position, the respondent obtained signature forcefully in resignation letters from the petitioner and other workmen. Aggrieved over the same, the petitioner along with other workmen made a representation to the Director of the Company on 29.06.2014. Due to which, the respondent made a false allegation against the petitioner and other workmen and ordered for enquiry. Based on the enquiry, he was dismissed from the service. Therefore, the petitioner raised an industrial dispute before the Labour Court, Vellore claiming consequential benefits. The Labour Court passed the preliminary award on 08.12.2022 on the preliminary issue. Challenging the said order, the present writ petition has been filed.



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3. The learned counsel for the petitioner submitted that the present writ petition has been filed on the sole ground that the Labour Court has arrived at a conclusion based on the Ex.W8/enquiry proceedings and the same was not properly conducted. When no arguments were advanced on the correctness of the findings, which was also not framed as an issue, the Labour Court cannot give a finding on the correctness of the report of the enquiry officer, without giving any opportunity to the petitioner. When the said issue is one of the issues to be decided under Section 11-A of the Industrial Disputes Act, this Court may clarify the Labour Court to conclude the adjudication in terms of Sections 2-A(2) and 11A of the Industrial Disputes Act.

4. The learned Senior Counsel appearing on behalf of the respondent submitted that the enquiry officer has conducted the enquiry in a fair and proper manner. This Court may clarify the Labour Court to conclude the proceedings with regard to the enquiry report.

5. Heard the learned counsel for the petitioner and the learned Senior Counsel appearing on behalf of the respondent and perused the materials available on record.



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6. Considering the fact that the Labour Court has passed the preliminary order and the petitioner has not challenged the enquiry proceedings, this Court permits the petitioner to canvas all the points with regard to the enquiry proceedings in terms of Sections 11-A and 2-A(2) of the Industrial Disputes Act at the time of adjudicating the main ID.

7. With the above clarification, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

22.08.2023

Rli

Index: Yes/No

NCS : Yes/No

To

The Judge, Labour Court, Vellore.



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M.DHANDAPANI, J.

Rli

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