



W.P.No.32769 of 2019
and W.M.P.No.33196 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM

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

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The Management of SDB Select Service (P) Ltd.,
Represented by its Legal Manager - Jinesh Kumar.K
No.9, T.T.K. Salai, Alwarpet,
Chennai - 67.

... Petitioner

Vs.

V.Kannan

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the I Additional Labour Court, Chennai in I.D.No.481/2017 dated 09.01.2019 and quash the same.

For Petitioner : Mr.K.S.Jeyaganeshan

For Respondent : Mr.S.T.Varadarajulu

ORDER

The petitioner SDB Select Services Private Limited, Chennai
had challenged the Award dated 09.01.2019 by the I Additional Labour



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WEB COURT, Chennai in I.D.No.481/2017.

2.The respondent was an employee of ISS SDB Security Services Private Limited since 21.11.2012. Subsequently, the present petitioner Company namely SDB Select Services Private Limited providing security services was formed in November 2014 out of the parent Company (ISS SDB Security Services Private Limited). The contention of the petitioner is that the respondent has submitted his resignation on 16.03.2015 along with a claim for the Provident Fund settlement. However, since he had worked only for six days i.e. 11.03.2015 to 16.03.2015 with the petitioner Company the salary of Rs.1,168/- was settled to him and subsequently, a sum of Rs.15,680/- towards Provident Fund Contribution was settled on 25.04.2018. But the respondent raised an Industrial Dispute before the Conciliation Officer stating that he was dismissed from service without any notice and that having served for more than 240 days in a calendar year his termination itself was null and void and even assuming that the petitioner Company was empowered to dismiss him the legal requirements of issuance of a



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memo, conduct of a domestic enquiry and payment of one month salary as mandated under Section 25F of the the Industrial Disputes Act were not complied with. The Conciliation Officer submitted his failure report dated 27.03.2017 which led to the I.D.No.487/2017 before the I Additional Labour Court, Chennai. The I Additional Labour Court awarded compensation of Rs.50,000/-in lieu of claim of reinstatement with continuity of service with backwages. This Award is under challenge in the present writ petition.

3. Mr.K.S.Jeyaganeshan, learned counsel for the writ petitioner would contend that the Labour Court had accepted the contention of the petitioner Company that the respondent had indeed submitted a resignation letter dated 27.04.2015 along with a claim for the terminal benefits. His further contention was that when the resignation letter itself has not been refuted by the respondent the decision of the Labour Court in awarding compensation is erroneous. It was also contended that the inordinate delay on the part of the respondent to approach the Labour Court clearly shows that the respondent's contentions were ill conceived.



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4. Per contra, Mr.S.T.Varadarajulu, learned counsel for the respondent contended that the Labour Court's order awarding the compensation was not only well reasoned but also a balanced verdict with sound logic. Therefore, he prayed for dismissal of the present writ petition.

5. The Labour Court had relied on the decision of the Apex Court in ***J.K.Cotton Spinning and Weaving Mills Company Ltd., Vs State of U.P. & Others*** reported in ***(1990) 4 SCC 27*** and concluded that there was no evidence adduced by the petitioner Company that the resignation of the respondent was accepted. It was also observed by the Labour Court that it was true that the resignation letter was not disputed by the employee. However, the present writ petitioner contended that the respondent worked only for six days in their Company i.e. from 11.03.2015 to 16.03.2015 and therefore was entitled to receive a salary of Rs.1,168/-. This contention is not acceptable for the simple reason that



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the present petitioner Company was only a Company bifurcated from the parent Company ISS SDB Security Services Private Limited which was founded as early as 1971 and the respondent joined the service on 21.11.2012. The petitioner Company in its affidavit had averred that the respondent served for five days as a guard with Balaji Casting Private Limited and one day with Tejo Engineering Private Limited. Interestingly the affidavit also mentions that the contract period with the Balaji Casting Private Limited expired on 15.03.2014 itself. It is unfortunate that disowning an employee who has been in employment since 2012 and claiming that he worked only for six days in the new entity out of which five days he had served in a Company with which the contract expired a year back makes a mockery of the entire Management of the petitioner Company. It is also observed that the resignation letter bears two dates 16.03.2015 and 27.04.2015 with no clarity as to who received it and whom it was actually addressed to. In such circumstances, it is difficult to accept that the resignation letter was a reason for discontinuation of his services. It is also not clear as to when this amount of Rs.1,168/- was settled. Therefore, the obvious conclusion which one



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can arrive at is that there has been an oral termination of the respondent by the petitioner Company making him approach the Labour Court for adjudication. It is clear from his salary slip and the appointment letter that the respondent joined the service as a Security Assistant on 21.11.2012 and merely because the parent Company got bifurcated on 01.03.2015 it cannot be construed as the respondent having served only for six days in the new set-up. I do not find any infirmity in the Award of the Labour Court.

6. Accordingly, the Writ Petition is dismissed. The orders dated 09.01.2019 in I.D.No.481/2017 on the file of the I Additional Labour Court, Chennai, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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



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