



WEB COPY



W.P.No.12902 of 2020 & W.M.P. No. 15957 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.12902 of 2020 & W.M.P. No.15957 of 2020

B. Kumar

... Petitioner

Vs.

The Management
M/s. M.T.A.B.
MTAB Engineering (P) Limited
No.17/1/, Thanikachalam Road,
T. Nagar, Chennai 600 017

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the III Additional Labour Court, Chennai in I.D. No.759 of 2009 dated 22.02.2013, quash the same and consequently direct the respondent to reinstate the petitioner with continuity of service and pay all the monetary benefits to the petitioner.

For Petitioner : Ms.N. Beulah John Selvaraj
For Respondent : Mr.A. Venkatesh Kumar
for M/s. Gupta & Ravi



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ORDER

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Challenge in this Writ Petition is made to the Award dated 22.02.2013 passed by the III Additional Labour Court, Chennai, in I.D. No.759 of 2009.

2. The Writ Petitioner joined the service of the respondent Management as an operator on 05.02.2002. He was regularised in service on completion of probation on 06.03.2003. The case of the Writ Petitioner / workman before the Labour Court is that he could not attend duty from 08.12.2008 to 10.12.2008 on account of his ill health. However, when he reported for duty on 11.12.2008, the officials of the respondent Management did not permit him. He therefore, raised an industrial dispute before the III Additional Labour Court, Chennai, in I.D. No.759 of 2009 under Section 2A(2) of the Industrial Disputes Act, 1947 (in short "ID Act") contending that his services were terminated on 11.12.2008. The respondent / Management filed a detailed counter stating that the petitioner absented himself from attending duty without any prior permission from 11.12.2008 onwards. According to them, they have not terminated the service of the petitioner / workman. The Labour Court, Chennai, after analysing the oral and documentary evidence



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adduced on both sides, dismissed the dispute made by the petitioner / workman on the ground that the workman has not been terminated from service by the Management and therefore he could not raise the dispute under Section 2A(2) of the ID Act. Aggrieved by the same, the present Writ Petition is filed by the petitioner workman.

3. Ms.N. Beulah John Selvaraj, learned counsel for the Writ Petitioner would contend that the present writ petitioner absented himself only for three days i.e, 08.12.2008 to 10.12.2008 and that on 11.12.2008 when he reported for duty he was not permitted to enter the premises. According to her, the Labour Court without considering this aspect had dismissed the dispute raised by the Writ Petitioner.

4. Per contra, Mr.A. Venkatesh Kumar, learned counsel for the respondent / Management would contend that the Writ Petitioner was not terminated from service and in fact had absented himself from attending duty from 11.12.2008 and though the Management sent a letter dated 20.12.2008 to the Writ Petitioner to report for duty immediately, there was no response from him. He therefore prayed for dismissal of the present Writ Petition.



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5. It is seen from the records that it is contended by the Writ

Petitioner / workman that though he went for reporting duty on 11.12.2008, he was not permitted to join duty. However, this has not been substantiated by him by adducing acceptable evidence. On the contrary, a perusal of the records shows that the respondent Management had sent three letters dated 20.12.2008, 31.12.2008 and 17.01.2009 directing the Writ Petitioner / workman to join duty immediately. The Writ Petitioner did not report for duty even after receipt of these three letters. Learned counsel for the Writ Petitioner contended that the Writ Petitioner had infact sent a letter dated 06.08.2012 requesting the Management to offer him employment. However, it is not known as to why the Writ Petitioner, immediately after receipt of letters from the Management in the year 2009, did not report for duty. He seems to have sent his request to the Management to offer him employment only in the year 2012. Moreover, the Writ Petitioner was not terminated from service, as alleged by him, on 11.12.2008. Considering all these aspects, the Labour Court, by a well reasoned order, dismissed the petition filed by the present Writ Petitioner under Section 2A(2) of the ID Act. Since there is no perversity in the orders passed by the Labour Court, I do not see any reason to interfere with the same.



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6. In the result, all the Writ Petition is dismissed. No costs.

Consequently connected Writ Miscellaneous Petition is closed.

15.12.2023

bga

Index : yes/no

Speaking /Non speaking Order

To

The Management

M/s. M.T.A.B.

MTAB Engineering (P) Limited

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R.HEMALATHA, J.

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