



W.P. No. 23013 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No. 23013 of 2018
and W.M.P. No. 26910 of 2018**

S.Siva

... Petitioner

-VS-

Orient Express,
6-B, Jawaharlal Nehru Salai,
Thiru Vi.Ka. Industrial Estate,
Chennai - 600 097.

... 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 on the file of the I Additional Labour Court with regard to the orders passed in I.D. 160 of 2007 dated 25.09.2014 and to quash the same and to reinstate the petitioner in service with backwages, continuity of service and other attendant benefits.

For Petitioner	: M/s.V.S.Jagadeesan
For Respondent	: Mr.Balan Haridass

ORDER

The Writ Petition has been filed against the order dated 25.09.2014 passed in I.D. No. 160 of 2007 by the I Additional Labour Court.

2. It is the case of the petitioner that he had been working as Tailor in the services of the respondent from the year 1996 with the last drawn wages of



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Rs.3,300/-. On 16.09.2006, the petitioner has been issued with a letter, in which allegations have been levelled against him and the same was replied by the petitioner vide letter dated 20.09.2006. Subsequently, another letter dated 21.09.2006 has been issued by the respondent by raising several other allegations against the petitioner, which was replied by the petitioner vide letter dated 26.09.2006. It is contended that by letter dated 16.10.2006, the respondent has advised the petitioner to join duty. Since the dispute between the petitioner and the respondent had continued, the petitioner was constrained to file an Industrial Dispute before the I Additional Labour Court, Chennai in I.D.No.160 of 2007 under Section 2-A of the Industrial Disputes Act, 1947, which was disposed of by order dated 25.09.2014. Aggrieved thereby, the petitioner has filed this Writ Petition.

3. The learned counsel for the petitioner submitted that admittedly the respondent did not deny the employee employer relationship before the Labour Court and the petitioner has examined himself as WW1 and marked documents and he has proved that he was continuously working for more than 240 days without any break and However, the respondent foisted of false allegation against the petitioner and orally terminated him from service. The said fact was not properly adjudicated by the Labour Court and mechanically dismissed the



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petition which is unsustainable one.

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4. The learned counsel for the respondent submitted that the petitioner was voluntarily absent from 16.09.2006. Thereafter, the respondent has repeatedly send letters to the petitioner to join the duty. Even thereafter, the petitioner failed to join the duty and however, he raised an industrial dispute before the Labour Court against the respondent, which is unsustainable one.

5. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, there is no dispute with regard to the employee and employer relationship between the parties. The respondent Management has stated that they sent repeated letters to the petitioner to report duty and the petitioner alone abandoned the service and had failed to report to duty.

7. It is the grievance of the petitioner that the respondent foisted the false allegation against the petitioner and orally terminated the petitioner from the service. The petitioner was working with the respondent Management for more



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than 10 years and therefore, he is entitled for compensation.

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8. The learned counsel for the respondent submitted that the company is not in existence at the relevant point of time. Therefore, there is no chance for reinstatement of service.

9. Considering the fact that the petitioner was working for more than 10 years with the respondent. The Labour Court has not considered the said aspect and mechanically rejected the petitioner claim. In such view of the matter, this Court directs the respondent to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) to the petitioner as full quit without interest within a period of four weeks from the date of receipt of a copy of this order. Failing which, the respondent Management is directed to deposit a sum of Rs.1,00,000/- with 6% interest, from the date of the petition till the date of deposit.

10. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

26.09.2023

Rli

Index: Yes/No



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NCS : Yes/No

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To

The I Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

Rli

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