



W.P. No.28326 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.08.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.28326 of 2017

M.Suresh Varghese

... Petitioner

vs.

1. The Presiding Officer,
I Addl. Labour Court,
Chennai.

2. The Management
L & T Ltd.,
Construction power Transmission
& Distribution,
Manapakkam,
P.B. No.979,
Chennai – 600 089.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling records from the 1st respondent relating to the impugned award dated 16.08.2017 in I.D. No.157 of 2016 and quash only that portion of the award denying reinstatement with continuity of service, back wages and all other attendant benefits and awarding to pay fifteen days' average pay for every completed year of continuous service, deducting two months' notice pay out of three months' notice pay already paid in lieu of reinstatement and direct the 2nd respondent to reinstatement the petitioner in service with full



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back wages, continuity of service and other attendant benefits and award cost.

For petitioner : Mr.S.Ravi
For respondents : R1 – Court
Ms.Rita Chandrasekar
for M/s.Aiyar & Dolia for R2

ORDER

This writ petition has been filed challenging the impugned Award, dated 16.08.2017 passed by the 1st respondent in I.D. No.157 of 2016 and for quashment of a portion of the said Award denying reinstatement with continuity of service, back wages and all other attendant benefits as well as for awarding of costs.

2. According to the petitioner he was appointed as Technical Supervisor with the 2nd respondent / Management and discharged his duties to the full satisfaction of his superiors and subsequently, his services were confirmed by the 2nd respondent. That being so, on 11.10.2013, he sent mail to the management seeking for increment and promotion. Thereafter various problems emerged and all of a sudden, on 14.04.2015, after completion of eight years, his services was terminated by the 2nd respondent, which resulted in raising an Industrial Dispute



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before the Labour Court I in I.D. No.157 of 2016. It is the grievance of the petitioner that though a finding has been arrived by the Labour Court that his termination is unsustainable, null and void, the relief of reinstatement with continuity of services and back wages have been denied. He is also aggrieved by the further finding rendered by the 1st respondent that the respondent management was directed to pay fifteen days average pay for every completed year of continuous service of petitioner, deducting two months notice pay out of three months notice pay already paid. Challenging the said Award, he has come before this Court by way of filing this writ petition.

3. Learned counsel for the petitioner submits that the services of the petitioner was terminated without assigning any reasons that too without affording any opportunity to the petitioner. He further submits that the 1st respondent has failed to consider the counter filed by the 2nd respondent containing bereft of details with regard to the strained relationship between the petitioner and the 2nd respondent. Further, he argued that there was no serious misconduct against the petitioner and hence, the termination of his services is non-est in law and he is entitled for the relief of reinstatement with continuity of service, back wages and



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all other attendant benefits. Finally, he placed his arguments against the second limb of the finding arrived by the 1st respondent, which is arbitrary and illegal. Hence, he prays for allowing of this writ petition by quashing the portion of the Award denying reinstatement with continuity of service, back wages and all other attendant benefits.

4. Ms.Rita Chandrasekar, learned Counsel for the 2nd respondent / Management submitted that the petitioner was found guilty of using unparliamentary words on his superiors and despite warning given by the 2nd respondent / Management, the petitioner indulged in quarrelling using derogatory and unparliamentary words. Moreso, she submitted that according to the respondent / Management, if the services of the petitioner are permitted to continue, which is in the nature of supervisory, it would cause great endanger to co-workers and thus, the Management has decided to terminate the services of the petitioner. She submitted that entitlements due to the petitioner viz., three months notice pay in lieu of notice, unavailed LTA and PL were disbursed and the same have been encashed by the petitioner and the same has been conceded by the petitioner at the time of recording of his evidence. Hence, the order impugned herein calls for no interference by this Court and therefore, she



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prays for mere dismissal of this writ petition.

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5. Heard the arguments placed by both the counsels and perused the records placed before this Court.

6. It is not in dispute that the petitioner and the 2nd respondent / Management is in the relationship of employee -employer. On a bare perusal of records, it reveals that during a course of period, there was a strained relationship between them by highlighting the misconduct of act of quarelling and physical violence involved by the petitioner. As such, the 2nd respondent / Management has terminated the services of the petitioner. Further, it is evident from the records that the petitioner had encashed the cheque sent by the 2nd respondent / Management towards three months pay without any protest, though the petitioner has taken a stand that the said payments are meant for his other entitlements due viz., LTA and PL and later expressed his readiness to return back the cheque. Further, it is seen that from the finding of Labour Court that the petitioner is an Ex-serviceman drawing monthly pension of Rs.17,000/- and nine years services alone left for his retirement. It is further noted that the 2nd respondent / Management has not filed an appeal and thereby



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the order passed by the Labour Court in I.D. No.157 of 2016 has reached the finality.

7. With the aforesaid reasons, this Court does not find any infirmity in the impugned order, dated 16.08.2017 passed by the I Additional Labour, Chennai in I.D. No.157 of 2016. However, to strike a balance, this Court put a query to the learned counsel for the 2nd respondent / Management, that the petitioner can be compensated with certain sums to mitigate his sufferings for the left over services of the petitioner. In such time, the learned counsel for the petitioner on instructions submitted that the petitioner is ready to accept the compensation, if the petitioner is paid a sum of Rs.15,00,000/- for which, the learned counsel for the 2nd respondent / Management on instructions submitted that the 2nd respondent / Management have no serious objection, if the said amount payable to the petitioner is treated as full quit compensation.

8. In view of the consent expressed by both the parties, this Court directs the second respondent / Management to pay a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) as compensation in full quit, within a period of eight weeks from the date of receipt of a copy of this



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order.

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9. The writ petition stands disposed of with the aforesaid directions. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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To
The Presiding Officer,
I Addl. Labour Court,
Chennai.



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M.DHANDAPANI, J.

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