



WEB COPY



W.P. No.19632 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.19632 of 2023

and

W.M.P.No.18889 of 2023

The Management of M.K.Subramaniam & sons,
Rep. by its Sole Proprietor Mr.S.Dhandapani,
Near Gandhi Statue,
No.29/248, Main Road,
Valparai – 642 127.

... Petitioner

Vs.

A.Chandrasekar

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the Presiding Officer, Additional Labour Court, Coimbatore relating to the impugned award dated 25.02.2019 in I.D.No.156 of 2013, quash the same as illegal, arbitrary and devoid of merit.

For Petitioner : Mr.P.Arularasu

ORDER

This writ petition has been filed seeking for issuance of a writ of certiorari to quash the impugned Award dated 25.02.2019 in I.D.No.156 of 2013 passed by the Presiding Officer, Additional Labour Court, Coimbatore.



W.P. No.19632 of 2023

WEB COPY

2. Since no adverse order is being passed against the respondent, notice to the respondent is dispensed with.

3. It is the case of the petitioner that the respondent was appointed as a salesman in the petitioner's shop on 01.06.1986. The respondent obtained hand loan from the petitioner for his domestic needs by way of cheques on various dates. When the petitioner demanded the respondent to settle the amount in installments, the respondent has refused to settle the same and subsequently, did not report to work from 10.08.2011. Alleging the oral termination, the respondent raised Industrial Dispute u/s.2A(2) of the Industrial Disputes Act 1947, vide I.D.No.156 of 2013 before the Labour Court, Coimbatore and the same was allowed vide order dated 25.02.2019 by setting aside the oral termination and directed the petitioner to pay a compensation for a sum of Rs.1,50,000/- to the respondent including the gratuity. Aggrieved by the said order dated 25.02.2019 passed by the Labour Court, the petitioner has come up with the above writ petition.

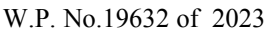
4. The learned counsel for the petitioner submits that though the respondent did not report to work on his own volition from the year 2011,



W.P. No.19632 of 2023

the Labour Court, Coimbatore passed the Award against the petitioner which is unsustainable. He further submits that the Labour Court ought to have considered the mis-conduct committed by the respondent with regard to his unprofessional behaviour towards the clients of the petitioner. More so, in the absence of any charge memo being issued by the petitioner management, the Labour Court mechanically passed the impugned Award without assigning any reasons with regard to the charge memo. He further contended that though the respondent's last drawn monthly salary was Rs.6,000/-, the Labour Court awarded huge compensation for a sum of Rs.1,50,000/- towards full and final settlement against the petitioner management which cannot be sustained. Hence, the impugned award dated 25.02.2019 passed by the Labour Court, Coimbatore is liable to be set aside.

5. Admittedly the respondent workman was appointed as salesman in the petitioner management in the year 1986. Though, it is claimed by the petitioner that the respondent on his own volition left the service from 10.08.2011, however, the respondent claims that he was orally terminated from service, which was challenged before the Labour Court, Coimbatore in I.D.No.156 of 2013. The Labour Court while examining the witnesses marked W.W.-1 for the petitioner and M.W.-1 for the management and



twelve exhibits viz. Ex.W-1 to Ex.W-12 for the workman.

Though the respondent workman has not stressed upon reinstatement of service, however, in so far as the back wages are concerned, since the respondent was appointed in the petitioner management in the year 1986, considering the service rendered by the respondent for over 25 years, this Court, directs the petitioner management to deposit a sum of Rs.1,50,000/- in full quit to the respondent within a period of six (6) weeks from the date of receipt of a copy of this order.



W.P. No.19632 of 2023

WEB COPY

7. With the above reasons and observation, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2023

1/2

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Index : Yes / No

Speaking order : Yes / No

NCC : Yes/No



WEB COPY



W.P. No.19632 of 2023

M.DHANDAPANI, J.

rap

W.P. No.19632 of 2023

04.07.2023

1/2



W.P. No.19632 of 2023

WEB COPY **W.M.P.No.18888 of 2023**
in
W.P.No.19632 of 2023

M.DHANDAPANI., J.

Dispensed with for the present.

04.07.2023
2/2

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