



WEB COPY



WP.No.17465 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17465 of 2018
and W.M.P.No.20743 of 2018

Tmt.Florence Elizabeth
4/10-1, Senkalliappan Nagar
Renganathapuram, Sulur,
Coimbatore-641402

...Petitioner

Vs.

1.The Management
Vijaya Hospital, Old No.180,
New No.434, NSK Salai,
Vadapalani, Chennai.

2.The Presiding Officer,
I Addl.Labour Court, Chennai-104

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of certiorarified Mandamus or any other appropriate writ, order or direction of the like nature calling for records on the file of the respondents relating to the impugned award of the second respondent dated 05.02.2018 in I.D.No.77 of 2012 and quash the same and direct the first respondent to reinstate the petitioner in the services of the first respondent with continuity of service and back wages and with all other attendant benefits.

For Petitioner : M/s.R.Arumugam
For Respondent-1 : No Appearance



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ORDER

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Aggrieved by the impugned award of the Labour Court in I.D.No.77 of 2012, the petitioner has come up with this Writ Petition.

2. Though the 1st respondent is served and their name printed in the cause list, none appears on behalf of them. However, considering the pendency of the Writ Petition which is of the year 2018, this Court is inclined to dispose of the Writ Petition based on the materials available on record.

3. The petitioner was appointed as a nursing assistant by the respondent hospital in the year 1996. In the year 2007, one Thirumalainambi who was official of the respondent hospital misbehaved with the petitioner and she made a complaint to the management in this regard. Instead of taking action against the said official, based on the fabricated complaint made by one Abel Majith, the management issued a show cause notice to the petitioner alleging that the petitioner received a sum of Rs.1,200/- from said Abel Majith, pursuant to which, an enquiry was



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conducted by the enquiry officer. Based on the enquiry report submitted by the enquiry officer proving the alleged charges against the petitioner, she was dismissed from service on 15.03.2010. Aggrieved by the said order, the petitioner raised a dispute before the 2nd respondent/Labour Court under Section 2A of the ID Act in I.D.No.77 of 2012 wherein, the Labour Court has modified the order of dismissal to one of compulsory retirement from 15.03.2010. Challenging the same, the petitioner has come up with this Writ Petition.

4. Learned counsel for the petitioner would submit that though it is alleged that the petitioner has received a sum of Rs.1200/- as a bribe from one Abel Majith who was the in-patient of the respondent hospital, however, it was the remuneration amount and not the bribe amount. Further, the Labour Court has failed to examine the said complainant and to provide an opportunity to test the veracity of the complaint which was made against the petitioner. The Labour Court having failed to examine the necessary witnesses and evidences from the management side, has mechanically come to a conclusion holding the alleged charges against the petitioner. Hence, the



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impugned award passed by the Labour Court requires interference.

Accordingly, he prays for allowing this Writ Petition.

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

6. The allegation levelled against the petitioner is that she has received a sum of Rs.1200/- as a bribe from one Abel Majith who was admitted as an inpatient in the respondent hospital for which, a domestic enquiry was conducted and the charges having been proved against the petitioner, she was dismissed from service.

7. A perusal of the impugned award reveals that all the oral and documentary evidences placed by the petitioner and the respondent management have been elaborately considered by the Labour Court while passing the award. Though it is the claim of the petitioner that the complainant namely Abel Majith was not examined during the domestic enquiry, however, it is seen from the records that the complaint was lodged



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only by the daughter of said Abel Majith which was marked as Ex.M22 and she has been duly examined before the enquiry officer as one of the Management witness. In view of the fact that all the witnesses have been duly examined while passing the award, the charges being proved against the petitioner and there being no infirmity with the findings rendered by the Labour Court, the impugned award requires no interference.

8. Further, it is the consistent ratio laid down by the Courts that, the order of the Labour Court, cannot be interfered with, unless there is a perversity in the order of Labour Court. In the present case, there is no perversity in the order passed by the Labour Court and this Court is not inclined to interfere with the factual findings rendered by the authorities. Hence, the writ petition is liable to be dismissed.

9. However, the 1st respondent is directed to compute and pay the entire benefits to the petitioner in terms of the award passed in I.D.No.77 of 2020 within a period of four weeks from the date of receipt of copy of this order if the same has not been already settled.



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M.DHANDAPANI, J

NHS

10. With the above observation and direction, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

NHS

To

The Presiding Officer,
I Addl.Labour Court, Chennai-104

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