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WP.No.17504 of 2018

In the High Court of Judicature at Madras

Dated : 27.9.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.17504 of 2018
& WMP.No.20783 of 2018

The Management, Roots
Cast Private Limited, rep.
by its Managing Director

...Petitioner

Vs

G.Matheshwaran

...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the Principal Labour Court, Coimbatore in I.D.No.361 of 2012 and quash its award dated 09.2.2018.

For Petitioner : Mr.S.Ravindran, SC for
Mr.S.Bazeer Ahamed
For Respondent : Mr.R.M.D.Nasrullah

ORDER

This a petition filed by the petitioner seeking to quash the award dated 09.2.2018 in I.D.No.361 of 2012 on the file of the Principal Labour Court, Coimbatore.

2. The facts leading to filing of this case are as follows :



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(i) The respondent was employed in the petitioner management as a driver. He was unauthorizedly absent during the years from 2007 to 2009. For the absence from 11.4.2009, the petitioner management issued a show cause notice dated 24.4.2009 and a communication dated 26.5.2009 proposing to initiate disciplinary action against him. Even thereafter, he did not report for work.

(ii) The respondent himself came forward to resign from the services of the petitioner vide letter dated 20.7.2009. By letter dated 22.7.2009, the petitioner accepted his resignation with effect from 24.7.2009 and this was also communicated to the respondent. Subsequently, the respondent, vide two letters dated 22.7.2009, requested the petitioner to grant ex-gratia payment and settlement of gratuity amount. On 24.7.2009, the respondent came to the petitioner establishment along with his wife and signed a settlement under Section 18(1) of the Industrial Disputes Act, 1947. His wife was a witness to the said settlement.

(iii) The respondent was granted a sum of Rs.1.5 lakhs towards ex-gratia payment in terms of the said settlement. The copies of the said settlement were sent to the officials of the Labour Department both at



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Chennai and Coimbatore. Another sum of Rs.17,826/- towards gratuity amount was also paid to him on 25.8.2009. On 08.10.2009, the petitioner forwarded the relevant forms signed by the respondent for settlement of provident fund dues and in November 2009, the Employees' Provident Fund Organization, Coimbatore acknowledged the cessation of employment of the respondent in the petitioner management on 24.7.2009.

(iv) After a period of two years, vide letter dated 17.6.2011, the respondent made certain allegations against the petitioner management that he was denied employment, that he signed in certain blank letters and blank papers due to persuasion of the officials of the petitioner, that on 25.8.2009, he received a sum of Rs.17,826/- towards bonus and leave salary and that he should be issued with orders. But, by reply dated 12.7.2001, the petitioner refuted the allegations made by the respondent.

(v) Pursuant to that, the respondent initiated conciliation proceedings before the Assistant Commissioner of Labour-3 (Conciliation), Coimbatore and it ended in failure. Thereafter, the respondent filed an industrial dispute before the Principal Labour Court, Coimbatore. In that, the petitioner filed a counter. During the pendency of the industrial dispute, the respondent



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attained the age of superannuation on 11.3.2017. Ultimately after contest, by the impugned award, the Principal Labour Court, Coimbatore directed the petitioner to pay a sum of Rs.1.5 lakhs towards compensation to the respondent within a month. Challenging the same, the petitioner is before this Court.

3. When the matter came up for admission on 13.7.2018, in WMP.No.20783 of 2018, this Court granted an order of interim stay subject to the condition that the petitioner should deposit the entire award amount within four weeks.

4. The learned senior counsel appearing for the petitioner submits that on 20.07.2009 the respondent submitted his resignation letter with effect from 24.07.2009 and upon receipt of such resignation, the petitioner vide letter dated 22.07.2009 accepted his resignation letter with effect from 24.07.2009, which were marked as exhibits before the Labour Court. He further submits that as the signatures of the respondent in the settlement entered into between the petitioner and the respondent under Section 18(1)



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of the Act was disputed by the respondent, the petitioner management filed I.A.No.186 of 2017 before the Labour Court, Coimbatore for the expert opinion of the handwriting expert to give a finding on the genuineness of the signature of the respondent, however, the Labour Court, Coimbatore vide order dated 27.11.2017 dismissed the same by holding that it would consume time to receive opinion of the handwriting expert. Hence, it is clear from the award passed by the Labour Court that the Labour Court itself presumed the role of handwriting expert and arrived at a conclusion with a direction to the petitioner to pay a sum of Rs.1,50,000/- to the respondent without finding the genuineness of the signature of the respondent, which is wholly unsustainable. Hence, this Court may direct the Labour Court to send the signature of the respondent for the expert opinion of the handwriting expert to give a finding on the genuineness of the signature of the respondent within the reasonable time that may be fixed by this Court.

5. The learned counsel for the first respondent submits that upon appreciating the oral and documentary evidences the Labour Court has passed the award which cannot be interfered with.



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6. Heard the learned Senior Counsel appearing on behalf of the petitioner and the learned counsel appearing for the respondent.

7. Admittedly, the respondent submitted his resignation letter on 20.07.2009 and upon receipt of such resignation, the petitioner vide letter dated 22.07.2009 accepted the resignation letter submitted by the respondent with effect from 24.07.2009. Since the signature of the respondent in the settlement entered into between the petitioner and the respondent under Section 18(1) of the Act was disputed by the respondent, the petitioner management filed I.A.No.186 of 2017 before the Labour Court, Coimbatore for the expert opinion of the handwriting expert to give a finding on the genuineness of the signature of the respondent, however, the Principal Labour Court, Coimbatore vide order dated 27.11.2017 dismissed the same by holding that it would consume time to receive opinion of the handwriting expert. Hence, it is clear that the Labour Court presuming its role as handwriting expert, arrived at a conclusion with a direction to the petitioner to pay a sum of Rs.1,50,000/- to the respondent which is wholly



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unsustainable.

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8. Accordingly the impugned award dated 09.02.2018 in I.D.No.361 of 2012 is set aside and the matter is remanded to Labour Court, Coimbatore for fresh consideration and the Labour Court is directed to send the signatures of exhibits M-2 to M-17 for expert opinion in comparison with the admitted signatures of workman including claim statement and proof affidavit within a period of two weeks from the date of receipt of a copy of this order. The Labour Court is directed to pass orders within a period of six weeks thereafter.

9. This writ petition is allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No



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M.DHANDAPANI,J

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To
The Principal Labour Court,
Coimbatore.

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