



W.P.No.21760 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21760 of 2023

and

W.M.P.No.21107 of 2023

M/s.Karnataka Commercial and Industrial
Corporation Private Limited,
Represented by its Authorised Signatory,
Palanivel,
Having Office at 8/54-D, 1st Floor, AG Block,
Shanthi Colony,
Chennai - 600 040.

... Petitioner

Vs.

Bharathidhasan

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records in award dated 28.06.2023 made in O.P.No.193 of 2022 on the file of the III Additional Labour Court, Chennai and quash the same.



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For Petitioner : Mr.B.Manoharan

For Respondent : Mr.Suresh Sakthi Murugan

ORDER

This impugned award dated 28.06.2023 in O.P.No.193 of 2022 passed by the learned III Additional Labour Judge, Chennai is under challenge in the present Writ Petition.

2. By consent of both parties, the Writ Petition is taken up for final hearing at the admission stage itself.

3. The petitioner is the employer under whom the respondent was engaged as a contract employee. The petitioner is the service provider for CMRL. The respondent was engaged as Ticket Vendor in the year 2017 and after some period, he did not report to duty and hence, he was terminated. Challenging the termination, the respondent filed Industrial Dispute in O.P.No.193 of 2022 on the file of the III Additional Labour Court, Chennai. The Labour Court passed an award dated 28.06.2023 directing reinstatement



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for the respondent with continuity of service and backwages. Challenging the same, the employer is before this Court.

4. The learned counsel appearing for the petitioner submits that the petitioner challenges the award on the ground that the Industrial Dispute raised by the respondent was not maintainable as the respondent was engaged as Station Service Manager / Ticket Vendor and thus, will not come under the definition of workman under the Industrial Disputes Act. The Labour Court also failed to consider the fact that during the conciliation proceedings itself, though the petitioner was willing to engage the respondent again, he was not willing to join and raised the Industrial Dispute. Hence, the learned counsel for the petitioner submits that the award has been passed without considering the issue in proper perspective. He further submits that if the respondent / workman is ready to forgo the backwages for the period of non-employment and gives an undertaking to that effect, the petitioner is willing to re-employ the respondent in any of the vacancies in Chennai.



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5. The learned counsel for the respondent / workman submits that the respondent / workman is ready and willing to join the petitioner establishment if he had offered a job in Chennai and that the respondent / workman is also willing to forgo the wages for the period of his non-employment.

6. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

7. In view of the consent view expressed by the learned counsel appearing for both sides, this Court is inclined to modify the award passed by the Labour Court. The petitioner establishment is directed to reinstate the respondent in any of their offices in Chennai within a period of two weeks from the date of receipt of a copy of this order. However, the respondent is not entitled for any backwages from the date of dismissal till the date of reinstatement, but he is entitled for continuity of service and all other benefits.



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

24.07.2023

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

vji

To

The III Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

vji

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