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W.P.No.23427 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.23427 of 2021 and
W.M.P.No.24701 of 2021

M.Vijayakumar

... Petitioner

Vs.

The Management of
Blue Dart Aviation Ltd.,
88, Old Airport Terminal,
Meenambakkam, Chennai - 27.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders, dated 15.02.2021 in an un-numbered I.A.SR Nos.509 and 510/2021 in I.D.No.82 of 2015, quash the same and consequently direct the II Additional Labour Court, Chennai, to issue summons to the Dean, Rajiv Gandhi Govt. General Hospital to constitute a medical board, to find out physical fitness of the petitioner for the post of Engineering helper and to submit a report in this regard and also depute a Medical Officer to give evidence on the Medical Board's report.

For Petitioner : Mr.V.Ajoy khose

For Respondents : Mr.P.Raghunathan for
M/s.T.S.Gopalan & Co.



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ORDER

Challenging the Orders in an un-numbered I.A.SR.Nos.509 and 510 of 2021 in I.D.No.82 of 2015, dated 15.02.2021 passed by the Presiding Officer, II Additional Labour Court, Chennai, the Writ Petition is filed.

2. The brief facts of the case:

The Writ Petitioner was working as Engineer Helper in the respondent management. While he was discharging his duty, he met with an accident by falling down from a ladder attached to an aircraft and sustained injuries. Thereafter, the petitioner did not return to duty and the respondent / Management, Blue Dart Aviation Limited, Chennai directed him to get fitness certificate from the Company Doctor on or before 30.04.2014 and report for duty. Since he did not report for duty as directed by the Management and continuously absented himself, he was terminated from service. He was also paid one month wages and gratuity.



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3. Aggrieved over the order of termination, the petitioner raised an Industrial Dispute under Section 2A(2) of the Industrial Disputes Act, 1947 in I.D.No.82 of 2015. The respondent Management filed a detailed counter in the said petition. When the matter was posted for trial, the Writ Petitioner filed an Interlocutory application in I.A.SR.Nos.509 & 510 of 2021 under Section 11 of the Industrial Disputes Act, to issue summons to the Dean, Rajiv Gandhi Government Hospital, Chennai to conduct medical examination on the petitioner by constituting a medical Board and to give him fitness certificate before the Labour Court. Both the applications were dismissed by the Labour Court. Aggrieved over the same, the present Writ Petition is filed.

4. Mr.V.Ajoy Khose, learned counsel for the petitioner contended that when the petitioner consulted the Company Doctor, he advised him to undergo surgery and on the contrary, a doctor from Apollo hospital, Chennai advised him to take physiotherapy treatment. Since there were two views, he wanted the Dean, Rajiv Gandhi Medical College Hospital, Chennai to constitute a Medical Board. Hence, he filed



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I.A.SR.Nos.509 & 510 of 2021 before the II Additional Labour Court, Chennai to summon the Dean of the Rajiv Gandhi Government Hospital, Chennai to refer him to medical board. Both the applications were rejected by the Labour Court. According to the Writ Petitioner, he cannot discharge his duty as an Engineer Helper as he had sustained severe injuries in his spinal cord and that the respondent/Management has to provide him an alternate job.

5. Per contra, Mr.P.Raghunathan, learned counsel for the respondent Management contended that the II Additional Labour Court, Chennai after analysing the evidence adduced on both sides, had passed a well reasoned orders and there is no reason for this Court to interfere with the same by invoking the provisions of Article 226 of the Constitution of India.

6. It is seen from the records that the writ Petitioner though was given an opportunity to report for duty during the month of November 2011, he did not obey the orders. The contention of the learned counsel



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for the Writ petitioner is that since the petitioner was undergoing physiotherapy treatment, he could not report for duty.

7. The Presiding Officer, II Additional Labour Court, Chennai had observed that it is not necessary for the Court to decide the present condition of the Writ Petitioner since the dispute between the Writ petitioner and the respondent Management is only with regard to the termination of the Writ petitioner from service. In fact in paragraph No.4 of the order in I.A.SR.No.509 of 2021, the II Additional Labour Court has given a clear finding which is extracted hereunder for better understanding:

“4. Now this petitioner failed to check the petitioner and to prove he is fit for job. But that is not the dispute raised by the petitioner. This Court need not decide the present condition rather the condition previously prevailed. So this Court feel this petition to send the petitioner for medical check up is unnecessary and the case will be prolonged and report if given by the doctor will no way help this Court to decide this case. This was elucidated to the petitioner counsel but he was not willing



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and asked to pass order in this petition. Hence this Court proceeds to reject the petition since this petition has no merits.

8. In the circumstance, I do not see any reason to interfere with the orders passed by the Labour Court and the orders passed by the Labour Court cannot be found fault with. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.12.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

To

The II Additional Labour Court, Chennai,



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R. HEMALATHA, J.

vum

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