



W.P.No.24698 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24698 of 2023

And

W.M.P.No.24135 of 2023

The Management of MRF Limited
Rep. by its General Manager,
P.B.No.5285, Thiruvottiyur,
Chennai – 600 019.

... Petitioner

Vs.

G.Sathiyamoorthi

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the Industrial Tribunal, Chennai and quash the impugned order dated 12.07.2023 made in A.P.No.102 of 2017 and directed the Tribunal to dispose of the matter on merits and in accordance with law.

For Petitioner : Mr.M.Vijayan
for M/s.King and Partridge

For Respondent : Mr.V.Prakash



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Senior Counsel
for Mr.T.Ram Kumar

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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records on the file of the Industrial Tribunal, Chennai and to quash the impugned order dated 12.07.2023 made in A.P.No.102 of 2017 and direct the Tribunal to dispose of the matter on merits and in accordance with law.

2.The case of the petitioner is that the petitioner filed approval petition under Section 33 (2) (b) of the Industrial Disputes Act, 1947 before the Industrial Tribunal, Chennai, seeking approval of the order of dismissal issued to the respondent and the Tribunal vide order dated 12.07.2023 dismissed the approval petition for default on the part of the petitioner with a cost of Rs.10,000/- payable to the respondent. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that respondent was engaged as an apprentice in the petitioner company from 17.01.1997 and was confirmed in service with effect from 17.01.1999. Since he indulged in series of mis-conduct, the



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petitioner issued show cause notice dated 10.03.2015 to the respondent. Being not satisfied with the explanation given by the respondent, the petitioner appointed enquiry officer to conduct enquiry and the enquiry officer conducted enquiry.

4.The learned counsel appearing for the petitioner further submitted that the Enquiry Officer drawn proven minute as against the respondent and based on the enquiry report dated 25.08.2017, second show cause notice was issued to the respondent on 28.10.2017 and thereafter the respondent was dismissed from service with effect from 04.11.2017 and along with dismissal order, one month salary was also given to the respondent. Thereafter, the petitioner filed approval petition before the Industrial Tribunal.

5.The learned counsel appearing for the petitioner further submitted that in the approval petition, the respondent challenged the fairness of the enquiry and arguments were advanced on behalf of both the parties and issues were framed and preliminary award was passed holding that domestic enquiry was conducted in a fair and proper manner and directed the petitioner to lead evidence with respect to the computation of one month wages paid along with the



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order of dismissal.

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6.The learned counsel appearing for the petitioner further submitted that the petitioner filed its proof affidavit on 20.12.2022 and the Management witness was cross examined by the respondent's counsel on 19.04.2023. Thereafter, the respondent filed his proof affidavit on 25.05.2023 and the respondent was cross examined by the counsel for the petitioner on 23.06.2023. During the cross-examination, the petitioner undertook to file certain additional documents and hence the case was adjourned to 06.07.2023 cross examination. On 06.07.2023, the counsel for the petitioner was ready to cross examine, however, since he was not well, he requested the tribunal for a shot accommodation to cross examine the respondent. Thereafter, the Tribunal adjourned the matter to 12.07.2023 on a condition to pay a cost of Rs.2,000/- to the respondent.

7.The learned counsel appearing for the petitioner further submitted that on 12.07.2023 the counsel for the petitioner appeared before the Tribunal and informed that the cost of Rs.2,000/- was not paid and requested to close the cross examination of the respondent,



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however, the Tribunal passed the impugned order dismissing the approval petition with a cost of Rs.10,000/- payable to the respondent.

8.The learned counsel appearing for the petitioner further submitted that admittedly, on 06.07.2023, the counsel for the petitioner was not well, thereby, he did not cross examine the respondent, for which, the Tribunal imposed cost of Rs.2,000/- which is not sustainable one and fair opportunity was not given to the petitioner's counsel which is clear violation of natural justice.

9.The learned Senior Counsel appearing for the respondent submitted that the Industrial Adjudicator adjudicated the proceedings in a fair and proper manner. For cross examination, on 06.07.2023, the witness was made to wait in the premises of the Tribunal from 10.30 a.m. to 4.25 p.m., however, the witness was not cross examined. Thereby, the Industrial Adjudicator imposed cost of Rs.2,000/- on the petitioner. Hence, this Court may permit the petitioner to file petitions seeking to restore the approval petition and to waive the costs.



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10. Heard the arguments advanced on either side and perused the materials available on record.

11. The facts in the present case is not in dispute. Admittedly, for non payment of cost, the approval petition was dismissed for default by the Industrial Tribunal with cost of Rs.10,000/- payable to the respondent. In view of the above, this Court permits the petitioner to file appropriate applications for restoration of the approval petition and for waiver of costs. If such applications are filed by the petitioner, the Industrial Tribunal, Chennai, shall decide the same and pass appropriate orders without affecting the reputation of the counsels..

12. The writ petition is accordingly disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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1.The Industrial Tribunal,
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