



WEB COPY



W.P.No.302 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.302 of 2017

D.Babu

...Petitioner

Vs.

1. Presiding Officer,
Principal Labour Court,
Vellore.

2. The Management of MRF Limited.,
Rep. by its General Manager,
Ichiputhur Village and Post,
Arakonam Taluk, Vellore District.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records the 1st respondent in connection with the award in I.D.No.164/2006 pronounced on 28.06.2012 including the preliminary order pronounced on 03.04.2012 and quash the same.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalaikannu

For Respondents : Mr.M.Vijayan
for M/s. King & Partridge, for R2



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ORDER

The petitioner has come up with this Writ petition seeking quashment of the final as well as the preliminary awards dated 28.06.2012 and 03.04.2012 respectively passed by the 1st respondent in I.D.No.164 of 2006.

2. The case of the petitioner is that the petitioner joined the service of the 2nd respondent management in the year 1997 on a daily wages basis in the Arakonam Factory. Though, the petitioner was doing the same work as that of the permanent worker, the 2nd respondent did not make him permanent and passed an order dated 01.11.1999, appointing him as an “apprentice trainee” and was paid Rs.50/- per day. Subsequently, the petitioner was made permanent, vide order dated 01.05.2002. Since the petitioner joined the M.R.F. United Workers Union, the 2nd respondent management started targeting the petitioner, by issuing several warning letters, notices and memos on various dates, making false allegations, as if the petitioner along with some co-workmen have jointly absented from the work without prior notice and is deliberately negligent in work and giving low production. Though the same were denied by the petitioner through his explanation letters, however, without considering the same, the petitioner



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was dismissed from service, vide order dated 30.12.2004. Aggrieved by the same, the petitioner raised an Industrial Dispute in I.D.No.164 of 2006 before the 1st respondent, however, the 1st respondent, passed an preliminary order dated 03.04.2012, holding that the enquiry was conducted in fair manner and passed a final order on 28.06.2012, dismissing the dispute raised by the petitioner. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, though the petitioner was issued with charge memos dated 27.04.2004 and 11.05.2004 on the ground that the petitioner was involved in low production and not achieved the bench mark, however, the respondent management has no standing order for bench mark and they came to a conclusion that the petitioner is involved in low production by comparing his own performance from the previous year, which cannot be put against the petitioner, as there are several stages in manufacturing and the production varies at every point of manufacturing. He further submitted that, though the order of dismissal was passed in the year 2004 and the petitioner filed Industrial dispute in the year 2006 and the present Writ petition in the year 2017, the same cannot be



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put against the petitioner, as Section 2A(2) of the Industrial Disputes Act was introduced only in the year 2010. Further, imposing a punishment of dismissal and denying back wages and refusing to reinstate is very harsh for low production. Hence, he submitted that, it would suffice, if this Court allows this Writ petition by setting aside the impugned order.

4. Learned counsel appearing for the 2nd respondent submitted that admittedly for low production, one Parandhaman and the petitioner herein were issued with charge memo and were subsequently dismissed from service. Pursuant to the dismissal of the industrial dispute raised by him, the said Paramdhaman approached this Court by way of filing Writ petition in W.P.No.733 of 2017, however, the same was dismissed, vide order dated 10.01.2017, challenging which, the said Parandhaman filed a Writ appeal in W.A.No.519 of 2021 which was also dismissed on 14.02.2023, confirming the order dated 10.01.2017 made in W.P.No.733 of 2017.

5. Heard learned counsel on either side and perused the materials available on record.

6. Though very many grounds have been raised by the learned counsel



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on either side, at the time of arguments, learned counsel for the 2nd respondent management submitted that insofar as Parandhaman/co-employee is concerned, the Writ Petition as well as the Writ Appeal filed by the said employee was dismissed and therefore this Court cannot take a different view in the case in hand and grant relief to the petitioner. This Court is of the considered view that, the aforesaid submission requires to be considered affirmatively as otherwise, passing any other order in respect of the petitioner, who is also similarly placed as the co-employee will be an act in violation of judicial discipline. Therefore, this Court is not inclined to interfere with the order impugned in this Writ petition.

7. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

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(1/2)

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

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To

Presiding Officer,
Principal Labour Court,
Vellore.

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WMP.No.316 of 2017

in

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M.DHANDAPANI., J.

Dispensed with for the present.

31.08.2023

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