



WEB COPY



W.P.No.26337 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.26337 of 2023

and

W.M.P.No.25750 of 2023

1.The Management,
Leaap Ro Ro,
53/54, Rajaji Salai,
Chennai – 600 001.

2.The Management,
Leaap Ro Ro (Carriage),
No.246/2, Vichur Salai,
Manali Pudu Nagar,
Chennai – 600 113.

... Petitioners

Vs

1.C.B.Samson

2.The Management,
Leaap International Private Ltd.,
No.46, I Floor,
Oriental Complex,
Rajaji Salai,
Chennai – 600 001.

... Respondents



W.P.No.26337 of 2023

Prayer: Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of award passed by the I Additional Labour Court, Chennai in O.P.No.141 of 2019 dated 30.6.2023 and quash the same as illegal.

For Petitioners : Mr.T.Veerakumar

ORDER

This Writ Petition has been filed by the petitioners seeking to quash the award dated 30.06.2023 in O.P.No.141 of 2019 on the file of the I Additional Labour Court, Chennai.

2. Since no adverse order is passed against the respondents, notice to the respondents is dispensed with.

3. The case of the petitioners is that, both the petitioners company are owned by a single proprietor. In the year 2008, the first respondent approached the first petitioner company for any suitable job. Since the first



W.P.No.26337 of 2023

respondent does not hold any qualification or degree, the first petitioner denied job. After repeated requests from the first respondent, the first petitioner employed him as a Security in their company from the year 2008. Since already there was security persons in the first petitioner company, the first respondent was placed at the second petitioner company.

3.1. It is the further case of the petitioners that, the first respondent was not interviewed by one S.K.Murthy, Managing Director of the second respondent. However, the first respondent was interviewed and appointed by one Karumurugan, Manager of the first petitioner company. While the first respondent was employed with the first petitioner company, he stealthily accessed the files and records of the staff members, who were already terminated and further communicated the details to them thereby losing the confidence of the petitioners. Thereby, he was terminated from service on 07.12.2018. Thereafter, he raised a dispute before the conciliation officer and the conciliation officer submitted a failure report. Thereafter, he filed an application before the I Additional Labour Court,



W.P.No.26337 of 2023

WEB COPY

Chennai under Section 2 A(2) of the Industrial Disputes Act, 1947 (in short 'the I.D. Act') seeking to set aside the oral dismissal order of the petitioners as unfair and unlawful and to direct them to reinstate him into service with continuity of service, back wages and other benefits. Ultimately, by the impugned award, the I Additional Labour Court, after holding that the order of reinstatement would not augment the industrial peace, directed the petitioners to pay a compensation of Rs.90,000/- to the first respondent in lieu of reinstatement, back wages and continuity of service within 30 days, failing which, the petitioners would be liable to pay 9% interest per annum on the awarded amount. Challenging the same, the petitioners are before this Court.

4. The learned counsel appearing for the petitioners submits that, the petitioners have established that the first respondent was not at all worked as an employee in bare minimum days as stipulated by Section 3 of the Tamil Nadu Industrial Establishment (Conferment of Permanent Status to Workman) Act, 1981 and thereby, he cannot invoke Section 2 A(2) of the



W.P.No.26337 of 2023

WEB COPY

I.D. Act as against the petitioners and however, without noticing the same, the Labour Court passed an order of award under Section 25(F) of the I.D. Act, which is not sustainable. Accordingly, he prays for allowing the writ petition.

5. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

6. The first respondent claimed that he was appointed by the first petitioner company as a security on 06.07.2008. After completion of ten years of employment, all of a sudden, on 07.12.2008, he was refused employment, thereby, the first respondent raised a dispute before the Labour Court and the Labour Court passed an award awarding compensation of Rs.90,000/-.

7. The issues arise in the present writ petition are whether there was an employee-employer relationship and without conducting any enquiry, the



W.P.No.26337 of 2023

first respondent was retrenched from job contrary to Section 25F of the I.D. Act.

8. Admittedly, even the petitioners did not deny the employee-employer relationship and the first petitioner admitted that the first respondent was interviewed by one Karumurugan, Manager of the first petitioner. Thereafter, after appointment, the first petitioner deputed the first respondent to the second petitioner company as security person. It is an undisputed fact that the first respondent entered the services of the petitioners in the year 2008. Further, the petitioners themselves admitted that they terminated the first respondent for the alleged misconduct in the year 2018. If any misconduct is alleged against the first respondent, it is the duty cast upon the petitioners to conduct departmental enquiry in the manner known to law. However, without conducting departmental enquiry, all of a sudden, they retrenched the first respondent from service, which is contrary to Section 25F of the I.D. Act.



W.P.No.26337 of 2023

WEB COPY

9. Section 25F of the I.D. Act makes it clear that, no workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice.

10. In the present case, the first respondent worked more than ten years with the petitioners and the same was admitted by the petitioners also. Even thereafter, without following the procedures contemplated under Section 25F of the I.D. Act, the petitioners passed an order of termination and by considering the said issue elaborately, the Labour Court, upon calculation, awarded a sum of Rs.90,000/- as compensation, which cannot be interfered with. Therefore, this Court finds no infirmity or illegality in the order passed by the Labour Court and this writ petition is devoid of merits and is liable to be dismissed.



WEB COPY



W.P.No.26337 of 2023

M.DHANDAPANI,J.,

sp

11. Accordingly, this writ petition is dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

08.09.2023

(2/2)

Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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To

The I Additional Labour Court, Chennai.

W.P.No.26337 of 2023

(2/2)



WEB COPY



W.P.No.26337 of 2023

W.M.P.No.25749 of 2023

in

W.P.No.26337 of 2023

M.DHANDAPANI, J.

This miscellaneous petition has been filed seeking to permit the petitioners to join together and file a single writ petition, is ordered as prayed for.

08.09.2023

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