



W.P. No.30811 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.08.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.30811 of 2017

A. Antony Gurusu

... Petitioner

VS.

1. The Managing Director,
M/s.GJ Security Guard Services,
4/807, Jari Kondalampatti
Market Street,
Sambaruni Complex,
Sankari Road,
Salem – 636 010.

2. The Toll Manager,
M/s.SU Toll Road Pvt. Ltd.,
No.105, Toll Plaza, Viracholapuram,
Kallakkurichi Taluk,
Villupuramm – 606 202.

3. The Presiding Officer,
Central Government Industrial Tribunal
– cum – Labour Court, Chennai.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order made in I.D. No.79 of 2015, dated 06.04.2017 on the file of the Central Government Industrial Tribunal -cum – Labour Court / third respondent herein and quash the same and consequently direct the first respondent to reinstate the petitioner with continuity of service along with back wages and other monetary benefits.



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For petitioner : Mr.C. Munusamy
For respondents : R1 Court
R2 No appearance

ORDER

This writ petition has been filed challenging the order, dated 06.04.2017 passed in I.D. No.79 of 2015 by the third respondent and for consequential direction to the first respondent to reinstate the petitioner with continuity of service along with back wages and other monetary benefits.

2. It is the case of the petitioner that he is an Ex-serviceman and joined the office of the first respondent as Gun Man on 01.06.2012 and worked therein till 21.08.2014. It is averred that the second respondent is the principal employer. It is the grievance of the petitioner that during the course of period, the first respondent has failed to pay salary to the petitioner. When that be so, all of a sudden, without issuing show cause notice or charge memo, the services of the petitioner has been terminated by the first respondent on 21.08.2014, which is a gross violation of principles of natural justice. Aggrieved by the said action, the petitioner has raised an issue before the Industrial Dispute before the third respondent / Labour Court in I.D. No.79 of 2015. Subsequently, the third



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respondent / Labour Court has passed the impugned order. According to the petitioner, an averment has been made in the impugned order dated 06.04.2017 that the issuance of termination order is illegal and hence for such an act, they directed the first respondent to pay a sum of Rs.25,000/- as compensation to the petitioner, instead of ordering for reinstatement of the petitioner. Aggrieved over the same, this writ petition has been filed with the aforesaid prayer.

3. Learned counsel for the petitioner submitted that the petitioner has not committed any misconduct during the course of employment with the first respondent and rendered his services to the utmost satisfaction of his superiors. When that be so, issuance of termination order by the first respondent, mechanically without application of mind, that too without assigning valid reasons is arbitrary and illegal. He also submitted that the petitioner is having valid Gun license at the time of termination. Hence, without considering the grievance of the petitioner for reinstatement of service and for entitled back wages, ordering meagre compensation by the third respondent / Labour Court in the impugned Order is unsustainable and thus, the impugned order dated 06.04.2017 is liable to be set aside. On that score, he prays for allowing of this writ



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petition by quashing the impugned order.

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4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. It is an admitted fact that the petitioner is an Ex-Serviceman and joined as Gun Man in the first respondent /Company. It is averred that the first respondent is acting as an Agent for the second respondent and the second respondent is the principal employer. On perusal of records, it is evident that there is no employer-employee relationship between the petitioner and the second respondent. The petitioner has also failed to submit any documents to substantiate his claim with regard to the aforesaid relationship with the first as well as second respondents. From the available records, it is noted that there was a service level agreement between the first and second respondents and the petitioner was assigned the job of Gunman on deputation basis. Further, it is crystal clear that the said agreement got expired on 30.11.2013. Thus, it can be arrived at a conclusion that the services of the petitioner is not in the nature of permanent employees or come under the purview of Section 2(k) of the Industrial Disputes Act. On expiry of the agreement period, the first



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respondent has no role either with the petitioner or with the second respondent. Hence, the question of reinstatement of the petitioner with the second respondent Company does not arise.

6. Be that as it may. Apart from the above, it is seen from the submissions made by the learned counsel for the petitioner that the petitioner has possessed valid Gun licence at the time of termination. However, it is to be noted at a point of time, the first respondent directed the petitioner to register his Gun License with the appropriate authority. But the petitioner did not act further and having failed to do so, it seems that there are some misleading facts submitted by the petitioner with regard to renewal of licence.

7. Though it is the stand taken by the petitioner that there was a violation of principles of natural justice, this Court is of the view that the petitioner is not entitled for reinstatement as the relationship between the petitioner and the respondents 1 and 2 are contractual in nature, which does not stipulate for issuance of any proper notice for the termination of his services. Further, it can be noted that the third respondent / Labour Court has rightly awarded compensation for the works extracted by the



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first respondent from the petitioner. Even though it is stated in the Termination Order dated 21.08.2014 issued to the petitioner by the first respondent that his services have been terminated only due to involvement in strike activities and on perusal of records, it is screened that the petitioner failed to register his Gun License with the authorities concerned, which aspects have shown the ulterior attitude of the petitioner. Therefore, the same cannot be accepted by this Court, as the petitioner is holding a position of an Ex-serviceman, who has to be a man of principle. Moreso, the third respondent has awarded compensation and thereby directed the first respondent to pay a sum of Rs.25,000/- to the petitioner and thus the petitioner is not entitled to claim any other dues from the first respondent. Therefore, the impugned order does not call for any interference by this Court, as there is no infirmity found.

8. In view of the aforesaid reasoning, there is no merit in the writ petition and accordingly, the writ petition stands dismissed. No costs.

30.08.2023

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

To

1. The Presiding Officer,
Central Government Industrial Tribunal – cum – Labour Court,
Chennai.



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M.DHANDAPANI, J.

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