



W.P.No.27569 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.27569 of 2023

And

W.M.P.No.27019 of 2023

M/s.Wheels India Limited,
Represented by its Authorised Signatory,
Mr.V.K.Subramanian

... Petitioner

Vs.

A.Suresh

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 01.09.2023 passed in I.A.No.2 of 2023 in I.A.No.1 of 2003 in I.D.No.12 of 2018 by the Learned II Additional Labour Court, Chennai and to quash the same and further permit the petitioner to cross-examine the workman (WW-1) in I.D.No.12 of 2018, the respondent herein with regard to his deposition covered by his proof affidavit dated 13th December 2022 rendered on 23.01.2023.



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For Petitioner : Mr.Sanjay Mohan
for M/s.K.Ramkumar

For Respondent : Mr.C.Prabhu

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 01.09.2023 passed in I.A.No.2 of 2023 in I.A.No.1 of 2003 in I.D.No.12 of 2018 by the II Additional Labour Court, Chennai and to quash the same and further permit the petitioner to cross-examine the workman (WW-1) in I.D.No.12 of 2018, the respondent herein with regard to his deposition covered by his proof affidavit dated 13.12.2022 rendered on 23.01.2023.

2.The case of the petitioner is that the petitioner belongs to TVS Group of companies, a reputed organization well known for its commitment to the welfare of the labour force working in its establishment. The respondent jointed the service of the petitioner Management on 02.09.1998 as Helper on probationary basis and was working as Operator in the year 2014. The respondent was an office bearer of Wheels India Workers' Union from the year 2009 and was indulging in making mischievous, false and malicious propaganda



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against the Management and false complaints were forwarded to various forums including facebook created by him against the establishment and further false allegations were also made against the Managing Director of the petitioner company.

3.The further case of the petitioner is that the petitioner, after giving sufficient opportunity to the respondent, issued show cause notice cum enquiry notice to the respondent charging him with the misconduct of making false or malicious statement against the establishment in terms of Clause 15 (XXXIII) of Certified Standing Orders and the respondent was also charged for the misconduct of assaulting one S.Ravi, Time office employee of the petitioner company, which is a serious misconduct under Clause 15 (XII) of the Certified Standing Orders and after this assault incident, pending enquiry, the respondent was suspended from service.

4.The further case of the petitioner is that thereafter, the Enquiry Officer submitted his findings on 29.11.2014 and on 02.12.2014, enclosing the findings of the Enquiry Officer, the petitioner issued second show cause notice to the respondent and



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subsequently, vide order dated 10.12.2014, dismissed the respondent from service.

5.The further case of the petitioner is that thereafter, the respondent raised industrial dispute under Section 2 (A) (2) of the Industrial Disputes Act in I.D.No.12 of 2018, before the II Additional Labour Court, Chennai. When the case was posted for enquiry, the respondent examined himself as WW1 by way of filing proof affidavit dated 13.12.2022 and marked Ex.W1 to Ex.W25 on 23.01.2023 and the case was posted on 30.01.2023 for cross examination of WW1.

6.The further case of the petitioner is that since the respondent, in his proof affidavit, had alleged that domestic enquiry has not been conducted in accordance with the principles of natural justice, the petitioner Management filed I.A.No.1 of 2023 before the II Additional Labour Court, Chennai, praying to decide 'whether the allegation made by the workman that domestic enquiry conducted by the Management is opposed to the principles of natural justice as a preliminary issue at the first instance and to issue appropriate directions to eschew from the proof affidavit of the respondent of all submissions and averments



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regarding other aspects of the case' and the II Additional Labour Court, Chennai, vide order dated 07.06.2023 partly allowed the said petition and posted the matter for enquiry to decide the domestic enquiry conducted by the Management is opposed to the principles of natural justice as a preliminary issue.

7.The further case of the petitioner is that thereafter the petitioner Management filed I.A.No.2 of 2023 seeking to permit the petitioner to cross-examine the workman in I.D.No.12 of 2018 with regard to his deposition covered by his proof affidavit dated 13.12.2022 rendered on 23.01.2023 and the said petition was dismissed on 01.09.2023. Challenging the same, the petitioner has filed this writ petition.

8.The learned counsel appearing for the petitioner submitted that so long as the respondent relies upon his chief examination, the petitioner Management has the right to cross-examine the respondent and further submitted that unless the proof affidavit is eschewed, the petitioner Management is unable to prove that enquiry was conducted in a fair and proper manner before the Labour Court. The learned



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counsel further submitted that for deciding the preliminary issue, the petitioner Management has to prove that enquiry was conducted in a fair and proper manner before the Labour Court.

9.The learned counsel appearing for the respondent submitted that this Court may set aside the impugned order and direct the Labour Court to permit the petitioner Management to adduce evidence with regard to the fairness of the enquiry and to decide the preliminary issue.

10.In view of the consent view expressed by the learned counsel appearing for the respondent, the impugned order dated 01.09.2023 passed in I.A.No.2 of 2023 in I.A.No.1 of 2003 in I.D.No.12 of 2018 by the II Additional Labour Court, Chennai, is set aside. The II Additional Labour Court, Chennai, is directed to permit the petitioner Management to adduce evidence with regard to the fairness of the enquiry, without considering the proof affidavit filed by the respondent and to decide the preliminary issue. The respondent workman is also entitled to canvass all the points before the Labour Court during the course of preliminary enquiry. After preliminary enquiry is completed



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and preliminary order is passed, the petitioner as well as the respondent are at liberty to work out the remedy in the manner known to law.

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

26.09.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The II Additional Labour Court,
Chennai.



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