



W.P.No.32006 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32006 of 2017

And

W.M.P.No.35162 of 2017

M/s.Lotus Footwear Enterprises (P) Limited
Rep. by its General Manager.

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.D.Megala

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records connected with I.D.No.13 of 2016 on the file of first respondent, Principal Labour Court, Vellore and to quash the award dated 28.08.2017.

For Petitioner : Mr.M.Kandasamy
For Respondents : R1 – Labour Court
R2 – No Appearance



W.P.No.32006 of 2017

WEB COPY

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records connected with I.D.No.13 of 2016 on the file of the Principal Labour Court, Vellore and to quash the award dated 28.08.2017.

2.The case of the petitioner is that the second respondent entered the service under the petitioner during the year 2009 and she on her own volition resigned from service on 23.09.2015. The petitioner accepted her resignation and relieved her from service on the same day. Thereafter on 29.09.2015, the second respondent wrote a letter to the petitioner Management that she was forced to resign on 23.09.2015 and that she is withdrawing her resignation.

3.The further case of the petitioner is that thereafter the second respondent raised dispute before the Labour Officer, Vellore and since conciliation failed, the second respondent raised industrial dispute in I.D.No.13 of 2016 before the Principal Labour Court, Vellore and the Labour Court passed award dated 28.08.2017 directing the petitioner to reinstate the second respondent with 50% backwages with continuity of service with all attendant benefits. Challenging the same,



W.P.No.32006 of 2017

the petitioner has filed this writ petition.

WEB COPY

4.The learned counsel appearing for the petitioner submitted that the second respondent joined the service of the petitioner during the year 2009 and she on her own volition resigned from service on 23.09.2015 due to health reasons. The petitioner accepted her resignation and relieved her from service on the same day and on her request, the petitioner transferred the entire terminal benefits to the second respondent's Bank account on 10.10.2015. After receiving the entire terminal benefits, the second respondent raised industrial dispute before the first respondent and the first respondent, without considering the factual aspects, passed award dated 28.08.2017 directing the petitioner to reinstate the second respondent with 50% backwages with continuity of service with all attendant benefits, which is not sustainable one.

5.The learned counsel appearing for the petitioner further submitted that on 29.09.2015, the second respondent wrote a letter to the petitioner Management that she was forced to resign on 23.09.2015 and that she is withdrawing her resignation, however, the



6. The learned counsel appearing for the petitioner further submitted that before the Labour Court, the second respondent did not specifically aver that she was not gainfully employed anywhere during non employment period. In the absence of any pleadings and evidence, 50% backwages awarded by the Labour Court is not maintainable one.

7. Though the name of the second respondent has been printed in the cause list, there is no representation for the second respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

8. Admittedly, the second respondent entered the service during the year 2009. The petitioner claim that the second respondent on



W.P.No.32006 of 2017

her own volition resigned from service on 23.09.2015 and her resignation was accepted by the petitioner and she was relieved from service on the same day. The petitioner further claim that on the second respondent's request, the petitioner transferred the entire terminal benefits due to the second respondent to her Bank account on 10.10.2015. It is equally un-disputed fact that on 29.09.2015, the second respondent wrote a letter to the petitioner Management that she was forced to resign on 23.09.2015 and that she is withdrawing her resignation.

9.Though the petitioner claim that the petitioner transferred the entire terminal benefits due to the second respondent to her Bank account on 10.10.2015, the petitioner did not establish the same before the Labour Court by producing necessary proof for payment of terminal benefits. Further, though the second respondent submitted her resignation letter on 23.09.2015, she was not relieved from service on the same day as claimed by the petitioner. Ex.M3 – relieving order marked before the Labour Court reveals that the relieving order was sent to the second respondent by RPAD on 28.12.2015 after three months.



W.P.No.32006 of 2017

10. Admittedly, on 29.09.2015, the second respondent has written a letter to the petitioner Management stating that she is withdrawing her resignation, however, the same was not accepted by the petitioner Management. Hence, the impugned award in respect of reinstatement needs no interference.

11. Coming to the question of 50% backwages awarded by the Labour Court, admittedly, the second respondent did not specifically aver anything in her claim petition that she was not gainfully employed anywhere during the non employment period. In the absence of any pleadings and evidence, 50% backwages awarded by the Labour Court is not sustainable one.

12. In view of the above, this Court is inclined to modify the award dated 28.08.2017 made in I.D.No.13 of 2016 by the Principal Labour Court, Vellore as follows:

(i) The petitioner Management is directed to reinstate the second respondent workman in service, with continuity of service and without backwages, within a period of four weeks from the date of receipt of a copy of this order, failing which, the petitioner Management shall pay a



W.P.No.32006 of 2017

sum of Rs.3,00,000/- (Rupees Three Lakhs Only) as full and final settlement to the second respondent.

13.The writ petition is disposed of with the above observation.

No costs. Consequently, the connected miscellaneous petition is closed.

31.08.2023

pri

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Presiding Officer,
Principal Labour Court,
Vellore.



WEB COPY



W.P.No.32006 of 2017

M.DHANDAPANI,J.
pri

W.P.No.32006 of 2017
And
W.M.P.No.35162 of 2017

31.08.2023