



W.P.No.13814 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

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

W.P.No.13814 of 2017

M.Kuppusamy

...Petitioner

Vs.

1. The Presiding Officer,
I Additional Labour Court,
Chennai – 600 104.
2. The Management,
Air Freight Limited,
44/45, Pantheon Road,
Egmore, Chennai – 600 008.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the order in I.D.No.438 of 2001 dated 09.08.2016 passed by the 1st respondent and quash the same and direct the 2nd respondent to reinstate the petitioner into the service.

For Petitioner : Mr.V.Manisekaran



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ORDER

This Writ petition has been filed seeking quashment of the order of the 1st respondent dated 09.08.2016 made in I.D.No.438 of 2001 and for a consequential direction to the 2nd respondent to reinstate the petitioner into the service.

2. The case of the petitioner is that, the petitioner/workman joined the service of the 2nd respondent as a casual in the year 1985 and was made permanent in the year 1988, as Cargo Assistant in Export Department and had completed more than 16 years of service in the 2nd respondent company. While so, on 07.03.2000, when the petitioner reported for work, he was not permitted to enter into the premises of the 2nd respondent and was informed that he was placed under suspension. Thereafter, on 15.03.2000, the petitioner received a letter dated 08.03.2000 stating that, as the petitioner refused to receive the charge sheet dated 06.03.2000 relating to certain alleged misconduct committed by him, which is a clear misconduct under Section VII of Staff Services Regulations, he was suspended from service pending enquiry. Pursuant to the same, the 2nd respondent management,



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after conducting enquiry, passed an order of dismissal dated 11.07.2000 as against the petitioner, without taking note of the past service rendered by the petitioner. Challenging the said dismissal order, the petitioner raised an industrial dispute before the 1st respondent in I.D.No.438 of 2001, who in turn, passed the present impugned award, dismissing the dispute raised by the petitioner. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that, though the petitioner did not mark any evidence/documents or examine any witness to disprove the allegations made by the 2nd respondent management as against him, the same cannot be put against him, since it is the same case on the part of the 2nd respondent as well and they have also not marked any documents or examined any witness on their part to prove the charges held as against the petitioner. Further, it is not a dispute that, during the pendency of this Writ petition, the 2nd respondent management changed, however, the 2nd respondent management has not furnished the details of the subsequent management, enabling the petitioner to either serve notice on them or implead them as necessary parties in this Writ petition.



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4. Admittedly, the petitioner was employed as Cargo Assistant in the 2nd respondent company and his job includes collecting bills and documents from the parties, releasing bill of Lading, Cheques, G.S.P. Certificates, collecting exporting certificates from South India Chamber of Commerce, delivering the documents to the parties etc., While so, the petitioner was issued with charge memo dated 06.03.2000, charging that, on 02.03.2000 at about 11.30 a.m., the petitioner went to the photocopy room and asked one Sivaraj to go with him and when he refused to go, the petitioner abused him using filthy language. Further, on 04.03.2000 at about 10.45 a.m., two officers who were superior to the petitioner asked the petitioner to collect a ship bill from the transport office and hand it over to the shipping line, the petitioner refused to do so and therefore, for the above said allegations, the petitioner was issued with charge memo and pursuant to which, the enquiry proceedings were initiated and the same ended in dismissal.

5. Be that as it may. A perusal of the material documents placed on record particularly the impugned award reveal that, though several allegations were made as against the petitioner, the petitioner had not taken



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any earnest efforts to examine any witness and he did not even examine himself as witness and no documents were marked by the petitioner to disprove the allegations made against him.

6. Further, it is brought to the notice of this Court that, during the pendency of this Writ petition, the 2nd respondent management changed. However, it is pertinent to note that, till date, the petitioner had not taken any steps to serve notice on the subsequent respondent management. Further the stand of the petitioner that the management has also not marked any evidence cannot be the basis to hold that no delinquency has been committed by the petitioner. It is for the petitioner to disprove the case of the management by examining witnesses and marking documents. Further, diligence warrant that the subsequent change in management should have necessitated the petitioner in impleading the subsequent management as a party respondent to the writ petition. However, the petitioner, merely contending that subsequent change in management has not been brought to his notice, has not taken any effort to implead the new management, which is fatal to his case.



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WEB COPY 7. For the reasons aforesaid, there is no infirmity or perversity in the order passed by the Labour Court and, therefore, this Writ petition fails and, accordingly, the same is dismissed. No costs.

07.09.2023

skt

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

To

The Presiding Officer,
I Additional Labour Court,
Chennai – 600 104.



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M.DHANDAPANI., J.

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