



W.P.No.25901 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25901 of 2017

J.Marshal

... Petitioner

Vs.

1.The Presiding Officer,
I Additional Labour Court,
Chennai.

2.The Management of Lanson Motors Ltd. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records from the first respondent relating to award dated 03.08.2017 in I.D.No.161 of 2015 and quash the same and consequently directing the second respondent to reinstate the petitioner with continuity of service and backwages with all other attendant benefits.

For Petitioner : Mr.C.Venkatesan
For Respondents : R1 – Labour Court
Mr.M.S.Soundara Rajan for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of



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Writ of Certiorarified Mandamus calling for the records from the first respondent relating to award dated 03.08.2017 in I.D.No.161 of 2015 and quash the same and consequently direct the second respondent to reinstate the petitioner with continuity of service and backwages with all other attendant benefits.

2.The case of the petitioner is that the petitioner joined as washerman under the second respondent in the year 2002 and was terminated from service on 15.09.2014. His last drawn salary was Rs.9,728/- per month. As against the order of termination, the petitioner raised industrial dispute before the first respondent and the first respondent dismissed the industrial dispute. Hence, this petition.

3.The learned counsel appearing for the petitioner submitted that though the petitioner joined as washerman under the second respondent in the year 2002, subsequently, he resigned the job and was reinstated in the year 2008. After resignation, the entire amount was settled. Thereafter the petitioner again rejoined and continued the job till 2014. During the course of employment, he requested for gratuity and provident fund, due to which, he was illegally terminated from service on 15.09.2014. Hence he raised industrial dispute.



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4.The learned counsel appearing for the petitioner further submitted that before the Labour Court, the second respondent claimed that on 13.02.2014 at about 11.30 a.m. the petitioner was found to have opened the spare parts bureau, removed the spare parts and taken them to the toilet and when the same was questioned by his co-employee, the petitioner asked to mind his own business; on 13.02.2014, the petitioner was found telling the customers that he would sell the spare parts to the customers which he had stolen from the company; on 21.02.2014, the petitioner was found telling the accessories in charge that he has stolen the company property and if the company has proof, let them take action against him. Thereafter enquiry was conducted and second show cause notice was issued to the petitioner and thereafter he was terminated from service. However, the order of termination is contrary to Section 25F of the Industrial Disputes Act, which is not sustainable one.

5.Per contra, the learned counsel appearing for the second respondent submitted that the petitioner was appointed during the year 2002. Thereafter, on 08.02.2005, the petitioner was suspended for one week on the ground of misbehaviour towards his colleagues;



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on 06.06.2006 the petitioner was suspended for 30 days on the ground of insubordination; on 04.11.2007 the petitioner was suspended for 15 days on the ground of making statements damaging the reputation of the establishment, quarrelling with co-workers, superiors, thereby the petitioner resigned his job and final settlement was made to him.

6.The learned counsel appearing for the second respondent further submitted that thereafter, the petitioner approached the second respondent Management and requested to give him job. Hence, considering the living condition, the second respondent appointed the petitioner as a fresh enterer. Subsequent to the employment, the petitioner stolen the spare parts from the bureau and was found telling the customers that he would sell the spare parts to the customers which he had stolen from the company. Hence, charge memo was issued to him and after conducting enquiry, the enquiry officer drawn proven minute and the enquiry report was furnished to the petitioner and thereafter second show cause notice was issued and thereafter order of termination was issued to the petitioner. Hence, there is no violation of Section 25F of the Industrial Disputes Act. Therefore, the impugned order warrants no interference.



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7. Heard the arguments advanced on either side and perused the materials available on record.

8. The facts in the present case is not in dispute. Admittedly, the petitioner joined the service of the second respondent during the year 2002. It is also not in dispute that thereafter the petitioner resigned his job and final settlement was made to him. It is also not in dispute that thereafter the petitioner approached the second respondent Management and requested to give him job. Hence, considering the living condition, the second respondent appointed the petitioner as a fresh enterer.

9. Perusal of records disclose that on 13.02.2014 at about 11.30a.m. the petitioner was found to have opened the bureau, removed the spare parts and taken them to the toilet and when the same was questioned by his co-employee, the petitioner asked to mind his own business; on 13.02.2014, the petitioner was found telling the customers that he would sell the spare parts to the customers which he had stolen from the company; on 21.02.2014, the petitioner was found telling the accessories in charge that he has stolen the company



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property and if the company has proof, let them take action against him. Thereafter, an inquiry was formally conducted and on 14.03.2014, the petitioner was placed under suspension.

10. Thereafter domestic enquiry was conducted and the enquiry officer drawn proven minute and enquiry report was furnished to the petitioner. Thereafter, based on the enquiry report, second show cause notice dated 02.09.2014 was issued to the petitioner and thereafter he was terminated from service on 15.09.2014. Hence, there is no violation of Section 25F of the Industrial Disputes Act.

11. The Labour Court has elaborately considered the factual aspects and has passed the award dismissing the claim of the petitioner. Therefore, the impugned order does not suffer any perversity and warrants no interference. The writ petition is dismissed. No costs.

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No
To
1. The Presiding Officer,
I Additional Labour Court,
Chennai.

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