



W.P.No.26311 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.26311 of 2017 and
W.M.P.No.27969 of 2017**

The Management,
Pure Enviro Engineering Limited,
Represented by its Deputy General Manager,
No.8, II Main Road, Shenoy Nagar West,
Chennai - 600 030.

... Petitioner

Vs.

1. The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai - 600 104.

2. K.R.Joseph

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the records and quash the award dated 12.06.2017 in I.D.No.45 of 2016 on the file of the first respondent in respect of grant of backwages.

For Petitioner : Ms.D.Veda

For Respondents : R1- Labour Court
No appearance for R2



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ORDER

The impugned award dated 12.06.2017 made in I.D.No.45 of 2016 passed by the first respondent is under challenge in the present Writ Petition.

2. The petitioner is the Management. The second respondent working with the petitioner / Management was transferred to the other site in view of the certain dissatisfaction expressed by the client. However, the second respondent / workman absented himself from duty on and from 12.06.2015. A notice dated 15.06.2015 was sent calling upon the second respondent / workman to report for duty which was returned with an endorsement 'no such person'. Thereafter, the second respondent / workman came to the office of the petitioner on 29.06.2015 and submitted a resignation letter. Subsequently, the second respondent / workman submitted the PF settlement claim to the PF Office and received the amount of Rs.27,887/- as final settlement. However, suppressing the same, the second respondent / workman raised an Industrial Dispute under Section 2A of the Industrial Disputes Act, 1971 (hereinafter referred to as 'the Act') before the



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Labour Court, Chennai alleging oral termination. The second respondent / workman claimed reinstatement with backwages and continuity of service. The counter affidavit was filed denying the allegations made by the second respondent / workman. The second respondent / workman filed a rejoinder to the said remarks and the petitioner / Management filed a reply to the rejoinder before the Conciliation Officer. The conciliation failed and failure report dated 17.02.2016 was sent by the Conciliation Officer. Thereafter, the second respondent filed a claim petition under Section 2A(2) of the Act in I.D.No.45 of 2016 before the first respondent / Labour Court. After hearing both sides and letting in evidence on behalf of the Management and the workman, the first respondent / Labour Court passed an award dated 12.06.2017 directing reinstatement of the second respondent / workman with backwages, continuity of service and all other attendant benefits from the date of termination of service to till the date of reinstatement. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel for the petitioner / Management challenges



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the award and submits that, the Labour Court had not considered the evidence adduced by the Management with respect to the resignation and also the proof submitted by the Management with regarding the gainful employment of the second respondent / workman. Therefore, the award of backwages by the first respondent / Labour Court is unjustified. It is also submitted by the learned counsel for the petitioner / Management that pursuant to the award dated 12.06.2017, the petitioner has offered reinstatement to the second respondent / workman which was not taken up by the second respondent / workman and this proves the malicious intention of the second respondent / workman in claiming backwages and all other attendant benefits. Hence the learned counsel for the petitioner / Management seeks indulgence of this Court in setting aside the award.

4. Though the name of the second respondent has been printed in the cause list, no one is appearing on behalf of him.

5. Heard the learned counsel for the petitioner / Management and



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perused the materials placed before this Court.

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6. This Court after careful consideration of the facts and circumstances of the case is of the view that the second respondent / workman though was offered re-employment by the petitioner / Management has not accepted the same and the petitioner / Management has averred in the counter affidavit before the Labour Court that the second respondent / workman was gainfully employed by plying an Auto for school children, which vehicle was also registered in his own name. Therefore, it is clear that the second respondent / workman has filed the claim petition only to claim for the backwages and not interested in joining the petitioner / Management for employment. The Labour Court has also not taken into consideration the exhibits submitted on behalf of the Management with respect to the notice issued to the petitioner therein, returned cover, copy of resignation letter etc., which documents unambiguously show that the second respondent / workman had voluntarily abstained from attending to duty and has frivolously filed the Industrial Dispute claiming that he was orally



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terminated.

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7. In view of the aforesaid circumstances, this Court is inclined to set aside the impugned award dated 12.06.2017. Accordingly, the award dated 12.06.2017 passed by the first respondent is set aside and a compensation of Rs.2,00,000/- (Rupees Two Lakhs only) is awarded to the second respondent / workman *in lieu* of reinstatement, backwages and all other attendant benefits which shall be paid by the petitioner / Management within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition is disposed of in the above terms.

No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To
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I Additional Labour Court,
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M.DHANDAPANI, J.

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