



WEB COPY



W.P.No.17853 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2023

CORAM :

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

W.P.No.17853 of 2017

and

W.M.P.No.19389 of 2017

Christian Medical College & Hospital,
Idascudder Road, Near Old Bus Stand,
Vellore – 632 004,
Rep. by its Medical Superintendent

... Petitioner

Vs.

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

2.G.Prabhu Gnanaselvan

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for records connected with the impugned order dated 30.11.2016 in I.A.No.310 of 2015 in I.D.No.128 of 2015 passed by the Presiding Officer, Principal Labour Court, Vellore and quash the same.

For Petitioner : Mr.S.Shivathanu Mohan

For Respondents : Labour Court [R1]
Mr.V.Ajoy Khose [R2]



W.P.No.17853 of 2017

ORDER

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This Writ Petition has been filed seeking for a Writ of Certiorari, to quash the impugned order dated 30.11.2016 in I.A.No.310 of 2015 in I.D.No.128 of 2015 passed by the first respondent.

2. The case of the petitioner Hospital is that, the second respondent was appointed as Instructor in the Nephrology Department in the petitioner Hospital vide appointment order dated 02.08.2001. Subsequently, he was confirmed in the same position with effect from 16.07.2003, thereafter, he was promoted as Dialysis Therapist Instructor Grade I with effect from 06.07.2010. In each of these orders, it has been made clear that he would be bound by the CMCH Staff Service Rules. The primary responsibilities of the second respondent is supervisory in nature with specific Teaching responsibilities. While so, the Head of the Department has conducted internal audit for the period from 01.04.2013 to 30.06.2013 at the Nephrology Department and has found that there was serious fraud and misappropriation of dialyzers worth about Rs.1,20,689/-, thereby, the second respondent has been issued with a suspension order on 17.09.2013 and followed by the same, a charge memo was issued and final order of



W.P.No.17853 of 2017

WEB COPY

termination was passed on 27.11.2014 after conducting domestic enquiry and providing opportunities. As against the termination order, the second respondent initiated conciliation proceedings and based on the failure report, the second respondent raised an industrial dispute before the Labour Court, in which, the second respondent filed an Interlocutory Application in I.A.No.310 of 2015 to decide the preliminary issue whether the enquiry was conducted in a fair and proper manner and the first respondent decided to conclude the preliminary issue. Challenging the order passed in I.A., the petitioner Hospital filed a writ petition before this Court.

3. The learned counsel for the petitioner contended that, even though the industrial dispute was raised in the year 2015, the same was in the stage of preliminary issue after a lapse of eight years. Hence, he submits that, this Court may issue a direction to the first respondent to decide the preliminary issue and jurisdiction, which was raised by the petitioner Hospital and dispose of the main I.D. itself within a time frame that may be stipulated by this Court.



W.P.No.17853 of 2017

WEB COPY

4. The learned counsel appearing for the second respondent submits that, he has no serious objection for the above said order being passed.

5. Considering the limited request sought for by the petitioner, this Court, without interfering with the impugned order, grants liberty to the parties to file their respective additional documents or evidences for disposal of the main I.D. and the Labour Court shall adjudicate all the issues including the preliminary issue of jurisdiction on merits and by affording opportunity to all the parties concerned and dispose of I.D.No.128 of 2015 as expeditiously as possible preferably within a period of six (6) months from the date of receipt of a copy of this order.

6. With the above directions, the writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

08.08.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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W.P.No.17853 of 2017

WEB COPY

To
The Presiding Officer,
Principal Labour Court,
Vellore.



WEB COPY



W.P.No.17853 of 2017

M.DHANDAPANI, J.

sp

W.P.No.17853 of 2017

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