



W.P.No.19198 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM :

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

W.P.No.19198 of 2017
and
W.M.P.No.20732 of 2017

The Management of Tamil Nadu
Electricity Board,
No.144, Anna Salai,
Chennai – 2.

... Petitioner

Vs

1.M.Ganesan

2.The Presiding Officer,
First Additional Labour Court,
Chennai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the second respondent in I.D.No.245 of 1988 dated 31.07.2009 and quash the same.

For Petitioner : Mr.K.Raj Kumar
for M/s.T.S.Gopalan & Associates



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For Respondents : Not ready in notice [R1]
Labour Court [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking to quash the order dated 31.07.2009 in I.D.No.245 of 1988 on the file of the second respondent.

2. The facts leading to filing of this case are as follows :

(i) The first respondent joined the petitioner Board in 1970. He served as an Assistant Engineer (Electrical), O&M, Sivagiri, Periyar Electricity Distribution Circle. He sent an application on 14.6.1983 to the Superintending Engineer concerned seeking permission to join two years full time MBA course in the Regional Engineering College (REC), Trichy. The application of the first respondent was forwarded to the REC, Trichy along with the permission letter and the first respondent joined the course on 26.09.1983. On noticing that the application ought not to have been forwarded, the Superintending Engineer



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concerned sent another letter to the REC, Trichy to withhold the application of the first respondent.

(ii) The first respondent was relieved of his duties on 08.08.1983 itself so as to attend a training at Chennai. However, without obeying the same, the first respondent did not attend the training. Thereafter, the first respondent approached the Chief Engineer (Personnel) through proper channel for issuance of a no objection certificate to join the MBA course and for sanction of leave for two years on loss of pay from 08.08.1983. In turn, the first respondent received a communication stating that he would be granted leave as requested after receipt of the original leave application from the Superintending Engineer concerned.

(iii) After receipt of the original leave application from the Superintending Engineer concerned, it came to light that he was already relieved from duty so as to attend a training at Chennai. Further, vide proceedings dated 21.09.1983, his request for sanction of leave for two years on loss of pay was refused. He was thereafter posted at Kavandapady Section. However, he did not obey. Rather, he was unauthorizedly absent. He continued



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to do the full time MBA course without permission and this was also informed to the Principal of the REC, Trichy.

(iv) Therefore, on 30.11.1983, a charge memo was issued framing three charges against the first respondent and calling upon him to submit his explanation. Though he received a copy of the same, he never submitted his explanation. Thereafter, an enquiry was ordered. As the first respondent did not attend the enquiry, an ex-parte enquiry was conducted and the Enquiry Officer submitted his report stating that the charges levelled against the first respondent stood proved. Even after the issuance of the second show cause notice, the first respondent did not submit his explanation. Therefore, the punishment of dismissal from service was imposed on the first respondent by an order dated 04.04.1985 and it was confirmed by the Appellate Authority.

(v) Subsequently, the first respondent raised the industrial dispute in I.D.No.245 of 1988 seeking to set aside the dismissal order and to direct the petitioner to reinstate him into service with back wages and all other attendant benefits. This was partly allowed by the impugned order dated 31.07.2009 by the second respondent/Labour Court setting aside the dismissal order and



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directing the petitioner to give continuity of service to the first respondent from 08.08.1983 FN till 31.07.2005 and pay 25% of both the back wages and all other attendant benefits. Challenging the same nearly after a period of eight years, the petitioner is before this Court.

3. The learned counsel for the petitioner Board submits that the first respondent had taken unauthorized leave to pursue full time M.B.A. degree without getting proper permission from the respective authorities, for which, disciplinary proceedings was initiated against him and the same has ended in order of dismissal from service, which is perfectly in order, which cannot be interfered with. However, the Labour Court without any materials, passed award for reinstatement with continuity of service and 25% of both the back wages and all other attendant benefits, which is not sustainable. Accordingly, he prays for allowing the writ petition.

4. Though notice was ordered for the first respondent in the year 2017, however, till date, notice was not served to him. Considering the fact that this



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writ petition is pending right from 2017 onwards, which is more than six years, this Court is inclined to decide the matter based on the available records.

5. Heard the learned counsel for the petitioner and perused the materials available on records.

6. It is alleged that the first respondent had unauthorizedly absented himself from duty to pursue his full time M.B.A. degree in the REC, Trichy, for which, disciplinary proceedings was initiated against him and thereafter, order of dismissal was passed, which was successfully challenged before the second respondent/Labour Court and the Labour Court passed an award in favour of the first respondent, which is not in dispute.

7. From a perusal of the averments made by the first respondent before the Labour Court reveals that he entered the service of the petitioner Board in the year 1970 as an Assistant Engineer (O&M) East, Sivagiri, Periyar Electricity System. On 14.06.1983, the first respondent sent an application



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through proper channel for admission of two years full time M.B.A. course in the REC, Trichy. The Superintending Engineer, Periyar Electricity Distribution Circle forwarded the said application with due recommendation to the Registrar of the REC, Trichy for taking appropriate action with a covering letter dated 17.06.1983. Thereafter, the first respondent received an intimation from the said College in respect of entrance examination and he got successful and interview was held on 13.08.1983 and the first respondent joined the M.B.A. course on 26.09.1983. It is also an undisputed fact that the first respondent applied study leave on 08.08.1983 and again he obtained study leave on loss of pay by his application dated 19.09.1983. The Chairman of the petitioner/Board granted leave on loss of pay for two years with effect from 17.09.1983 and the order was forwarded to the first respondent through proper channel. Accordingly, the first respondent joined M.B.A. course and completed the same. In the meanwhile, the Director of Training, Tamil Nadu Electricity Board Staff Training College sent a communication stating that the first respondent had been listed for training and in the seniority list, his name was found at Serial No.31. Thereafter, the first respondent came to know that



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several juniors were left out and they were exempted from undergoing the training without proper reason. As a matter of fact, the first respondent had applied for exemption from undergoing the training and the Assistant Divisional Engineer O & M, Sivagiri recommended the exemption application filed by the first respondent dated 22.07.1983 and the first respondent picked up for undergoing the training and was relieved on 08.08.1983. No travelling allowance was paid though the first respondent was eligible for the same. Thereafter, on 30.11.1983, charges were framed and the same ended in removal from service, which was challenged before the Labour Court and the Labour Court passed an award for reinstatement.

8. However, a perusal of the records reveals that the first respondent attained the age of superannuation on 31.07.2005 and he died on 08.08.2012, which is after the award and his daughter and son are the surviving legal heirs. Though the first respondent died on 08.08.2012, however, nearly after a period of five years, the petitioner Board filed this writ petition in the 2017 and filing this writ petition against the deceased person cannot be entertained. Further,



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after considering the entire documents filed by the first respondent, the Labour Court had passed the award, which cannot be interfered with. It is also seen that the first respondent after obtaining necessary permission, he completed his studies, for which, the petitioner Board initiated disciplinary proceedings and imposed the punishment of dismissal from service, which is highly disproportionate and the same is not sustainable. Hence, the present writ petition cannot be entertained by this Court and the same is liable to be dismissed.

9. Accordingly, the writ petition is dismissed. However, the petitioner Board is directed to settle the entire terminal benefits to the legal heirs of the deceased/workman within a period of six (6) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
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M.DHANDAPANI,J..

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To

The Presiding Officer,
First Additional Labour Court,
Chennai.

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