



W.P.(MD) No.12996 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WP(MD) No.12996 of 2020

K.Periyasamy

... Petitioner

-VS-

1.The Commissioner of Labour
DMS Campus, Post Box 476
Teynampet, Chennai 6

2.The Additional Commissioner of Labour,
1st Floor, TNHB
Ellis Nagar, Madurai 16

3.The Assistant Commissioner of Labour,
Enforcement,
Koramapallam, ITI Campus,
Palayamkottai,
Tuticorin District

4.The Manager,
Madura Coats Private Limited,
Tuticorin.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the 1 to 3 respondents to consider the



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representation of the petitioner dated 11.09.2020 seeking appointment of an enquiry officer pursuant to the enquiry proceedings pending against the petitioner in Madura Coats Private Limited, Tuticorin.

For Petitioner : Mr. N.Anandkumar

For Respondents :Mr.S.P.Maharajan for R1 to R3
Special Government Pleader
Mr.T.Ravichandran for R4

ORDER

This writ petition has been filed for a direction to the 1 to 3 respondents to consider the representation of the petitioner dated 11.09.2020 seeking appointment of an enquiry officer pursuant to the enquiry proceedings pending against the petitioner in Madura Coats Private Limited, Tuticorin.

2. The case of the petitioner is that he is working under the fourth respondent for the past 36 years. While so, on 16.04.2019, he was suspended from service without giving any notice and on 03.05.2019, a show cause notice was issued framing six charges. An enquiry officer was appointed. He attended the enquiry on 14.03.2020. However, when he



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sought permission to cross-examine the management witnesses, it was refused by the enquiry officer. While so, during COVID-19 pandemic, a paper publication was issued on 06.08.2020 stating that the 2nd show cause notice was returned as unclaimed. Hence, the petitioner has given a reply on 25.08.2020 for continuation of proceedings. Subsequently, the petitioner made a representation to the respondents 1 to 3 on 11.09.2020 to appoint an enquiry officer to conduct an enquiry. Since the same was not considered, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that this Court may issue a direction to the respondents to consider the representation of the petitioner and pass appropriate orders.

4. The learned counsel for the 4th respondent would submit that the allegation against the petitioner is that he along with the President of the Union locked the door outside and thereby prevented the employees of the 4th respondent to perform their duties and further they assaulted the

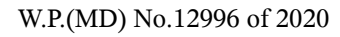


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employees of the 4th respondent and an FIR came to be registered and therefore, the petitioner was placed under suspension and a charge memo was issued on 03.05.2019 and an enquiry officer was appointed and the petitioner has not attended the enquiry and enquiry was concluded on 14.03.2020. He would further submit that in culmination of the enquiry report, the petitioner was dismissed from service on 04.09.2020. He would further contend that the petitioner has not challenged the termination order dated 04.09.2020. However, without challenging the termination order in the manner known to law, filing a writ petition for a mandamus is unsustainable. Hence, the learned counsel for the 4th respondent prays for dismissal of the writ petition.

5. Heard the learned Special Government Pleader for the respondents 1 to 3 and the learned counsel for the 4th respondent.

6. Framing of charges, issuance of show cause notice and suspension made by the authorities are not disputed. Similarly, the



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M.DHANDAPANI, J.

RR

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