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W.P.(MD)No.9274 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.9274 of 2018
and
W.M.P.(MD)No.8587 of 2018

The Managing Director,
Ceeyes Metal Reclamation Private Limited,
Thuvakkudi,
Plot No.51 and 52,
SIDCO Industrial Estate,
Tiruchirapalli-15.

... Petitioner

VS.

1.C.Sathish Kumar

2.The Presiding Officer,
Labour Court,
Tiruchirapalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the award passed in I.D.No.3 of 2013, dated 03.01.2018, on the file of the Labour Court, Trichirapalli and to quash the same.



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For Petitioner : Mr.N.Mohideen Basha

For R1 : M/s.T.Banumathy

For R2 : Labour Court

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to quash the award passed in I.D.No.3 of 2013, dated 03.01.2018, on the file of the Labour Court, Tiruchirapalli.

2. The 1st respondent was appointed on 01.09.2005 and he was under probation for six months with annual salary of Rs.36,000/-. The 1st respondent was allotted a work wherein he ought to handle highly sensitive machine, but the 1st respondent had operated the said machine without due caution and care, which had resulted in break-down of the said machine frequently. Therefore, the petitioner company had initiated disciplinary proceedings and the 1st respondent was dismissed from



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service. Aggrieved over the same, the 1st respondent herein had filed I.D.No.3 of 2013. After going into the records, the Labour Court has set aside the dismissal order and directed the petitioner herein to grant continuity of service and back wages with attendant benefits to the first respondent herein.

3. The contention of the petitioner company is that the 1st respondent was handling highly sensitive machine, but without taking due care the 1st respondent was responsible for break-down of the machine frequently and the petitioner company was incurring loss due to repair charges as well as due to non-production.

4. It is seen from the impugned order that the 1st respondent has specifically deposed before the Labour Court that he is not inclined to continue his service in the petitioner company which is extracted here under:



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“நான் தற்போது தகுதிக்காண் பருவகாலத்தில் பணி
கொடுத்தால் பணி செய்ய தயாராக உள்ளேனா என்றால்
தயாராக இல்லை.”

5. When the 1st respondent specifically deposed that he is not inclined to continue his service in the petitioner company, the order passed by the Labour Court granting reinstatement with continuity of service and back wages is absolutely a perverse order. Therefore, this Court is inclined to interfere with the order and hence the impugned order is set aside.

6. It is seen from the records that the 1st respondent was in service in the petitioner company only for a brief period. Therefore, this Court is inclined to grant some compensation to the 1st respondent. The petitioner company is directed to pay the basic salary of ten months to the 1st respondent.



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7. With the above said direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No

30.03.2023

Tmg

To

The Presiding Officer,
Labour Court,
Trichirapalli.



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S.SRIMATHY, J

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