



W.P.(MD)No.12454 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.12454 of 2015

P. Muthu

... Petitioner

Vs.

1.The Management,
AMK metal industries,
Trichy-Madurai National Highway,
Vadukappatti Village,
Viralimalai Panchayat Union,
Illuppoor Taluk,
Pudhukottai District.

2. The Presiding Officer,
Labour Court,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, call for the records to the impugned order passed by the 2nd respondent in I.D.No.85/2008 dated 16.12.2014 and quash the same and may consequently direct the 1st respondent to disburse all the service benefits including the back wages to the petitioner from 01.12.2007.



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For Petitioner : Mr.K.P.Narayanakumar
For R-1 : Mr.R.Vigneshwaran
R-2 : Court

ORDER

This Writ Petition has been filed challenging the impugned order, dated 16.12.2014 passed in I.D.No.85/2008 and consequently direct the 1st respondent to disburse all the service benefits including the backwages to the petitioner, for a period from 01.12.2007.

2. The contention of the petitioner is that he was working under the 1st respondent which is AMK Metal Industries. Subsequently, the petitioner was dismissed from service on 09.12.2007 since he had committed some misconduct. The petitioner had approached the 2nd respondent for reinstatement and to grant continuity of service. After perusing the evidence the 2nd respondent Labour Court had dismissed the petitioner's claim. Aggrieved over the same, this writ petition is filed.



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3. The further contention of the petitioner is that he was continuously working as Daily Wage Employee, under the 1st respondent Industries and he was lastly paid a sum of Rs.3000/- as monthly salary, after mandatory deductions of Rs.150/-towards Provident Fund. Subsequently, it was increased to Rs.4000/-from the year 2000. He has also received bonus for Deepavali Festival. The petitioner was also assured by the 1st respondent that he will receive a sum of Rs.1 lakh on the date of superannuation. On 09.12.2007 the 1st respondent through his supervisor had high handedly restrained the petitioner from doing any work and the 1st respondent has not followed any mandatory rules and regulations to terminate the service.

4. The contention of the 1st respondent is that the said Industry was purchased by the 1st respondent, from 1996 onwards. The petitioner was engaged in the weighing bridge on daily wages basis and was paid a sum of Rs.50/-, as and when the petitioner report for work. There was no contract at all between the petitioner and the 1st respondent and no appointment order was issued. On 09.12.2007, it was detected that the petitioner recorded false entries in the receipt issued by indicating false weight which resulted in loss to the 1st respondent. On



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detecting the said misconduct, the 1st respondent immediately declined to give any job to the petitioner. The 1st respondent has also maintained book of accounts and the petitioner's name is not found at all. Therefore, the 1st respondent prayed to dismiss the writ petition.

5. Heard Mr.K.P.Narayanakumar, learned counsel appearing for the petitioner and Mr.R.Vigneshwaran, learned counsel appearing for the 1st respondent. Perused the material documents available on record.

6. The contention of the 1st respondent is that the petitioner was engaged as Daily Wage employee and he was paid a sum of Rs.50/-per day. The petitioner was granted work as and when the petitioner reports for duty and there is no continuous employment. The petitioner was not engaged further because of the grave misconduct, as stated supra, which caused loss to the 1st respondent. Subsequently, the petitioner was paid all applicable statutory benefits. Apart from that the petitioner is not entitled to any monetary benefits from the 1st respondent.



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7. The contention of the petitioner is that the petitioner was paid monthly salary of Rs.3000/-, subsequently paid Rs.4000/-. But the 1st respondent has not issued any receipts for such payment and hence the is not having any receipts. However, the 1st respondent was maintaining records by making entries in the wages register. The petitioner had filed a petition before the Authorities to direct the 1st respondent to produce the receipts or the register and the same was allowed. But the 1st respondent did not produce the same and hence adverse inference ought to be taken into account.

8. This contention of the petitioner was refuted by the 1st respondent and submitted that they have not issued such receipts and no registrar was maintained. Moreover, the petitioner was engaged prior to 1996 and the 1st respondent is the subsequent purchaser and hence the records are not available.

9. After considering all the facts and circumstances and the rival submissions, this Court is inclined to grant some compensation on equity to the petitioner to the tune of Rs.50,000/-. The 1st respondent is directed to pay the said



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compensation to the petitioner, within a period of four weeks, from the date of receipt of a copy of the Order.

10. With these observations, this Writ Petition is disposed of. No costs.

Index : Yes / No
Internet : Yes
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To:

The Presiding Officer,
Labour Court,
Trichy.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No.12454 of 2015**

06.02.2023