



W.P.No.11247 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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T.Veeramuthu

.. Petitioner

Versus

1. M/s.MADRAS SECURITY SERVICES PVT. LTD.,
No.97-A, Peters Road, Gopalapuram,
Chennai - 600 086.

2. The Hon'ble Presiding Officer,
II Addl. Labour Court,
Chennai - 600 104.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent pertaining to the case in I.D.No.591 of 2004 and quash the order passed by the 2nd respondent herein on 20.11.2007 in I.D.No.591 of 2004 consequently direct the 1st respondent to give employment to the petitioner with continuity service and back-wages.



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For Petitioner : Mr.P.Ganesh Kumar,
for M/s.R.Kumari

For Respondents : Mr.T.Ramkumar, for R1

: R2 - Labour Court



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ORDER

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This Writ Petition is filed challenging the award of the Labour Court made in I.D.No.591 of 2004, dated 20.11.2007, in and by which, while allowing the Claim Petition made by the workman, while ordering the reinstatement into service, the Labour Court denied the back-wages and continuity of service and directed that the workman be re-employed as a fresh candidate.

2. The factual matrix, in which, the Writ Petition arises is that the workman was employed as a Security Guard in the first respondent management. While so, in the year 2003, it is the case of the workman that while coming for work, near his place of duty, he was hit by auto-rickshaw and suffered grievous injury in his leg and thereafter, he was taken treatment and when he reported back for duty again, no duty was given to him and he was non-employed. Aggrieved by the same, the workman raised a dispute.



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The conciliation failed. Thereafter, the Claim Petition was taken on file as I.D.No.591 of 2004.

3. The Claim Petition was resisted by the management by filing a counter statement. It is the case of the management that the workman was casually employed on some days on need basis only and he is not regularly employed with them. On the said pleadings, the Labour Court took up the matter for enquiry. The workman examined himself as *W.W-1* and ***Exs.W-1*** to ***W-5*** were marked on his behalf. No evidence was let in on behalf of the management. After considering the evidence on record, the Labour Court found that at least, by virtue of *Ex.W-1*, which is a letter, it can be seen that the workman was employed with the management with effect from 25.01.2002.

4. The Labour Court further considered ***Ex.W-2*** which is again a letter written by the management to third parties for allotment of A.S.O duty. The



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Labour Court also considered the conduct/service certificate issued to the workman which was marked as *Ex.W-3*. The medical records of the workman, for getting treatment for being hit by the auto-rickshaw, which were produced as *Ex.W-4* and the fracture report contained in *Ex.W-5* was also considered. After considering the same, the Labour Court disbelieved the case of the management and agreed with the workman and held that the non-employment as unjustified. However, it denied only the back-wages as well as the continuity of service and directed reinstatement as a fresh entrant. The management is not aggrieved by the same. The workman is aggrieved and filed a Writ Petition on the ground that the Labour Court should also have awarded the back-wages as well as the continuity of service.

5. The case of the petitioner/workman is that when the management failed to produce the attendance register etc., and when there is a finding in favour of the workman, the Labour Court ought to have ordered the back-wages and continuity of service. The evidence let in by the workman went



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unrebutted and no evidence whatsoever was let in by the management during the course of the enquiry before the Labour Court. In that view of the matter, the back-wages as well as the continuity of service should have been ordered by the Labour Court.

6. I have considered the said submissions made on behalf of the workman.

7. The grounds raised are the ones which can weigh only for the purpose of reinstatement of the workman into service. As far as the back-wages are concerned, it is not automatic and the Labour Court can consider all the attendant circumstances and facts of the case. Additionally, in this case, the continuity of service is also refused to the workman. When the Labour Court had also applied its mind to the peculiar facts and circumstances of the case with reference to the date of joining of service etc., also there is some doubt and when the workman claimed to be employed



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from the year 2001, however, produced evidence only from the year 2002, in the special facts and circumstances of the case, no exception whatsoever can be taken for the Labour Court to mould the relief in exercise of its power under Section 11-A of the Industrial Disputes Act, 1947 and order reinstatement of the workman as fresh entrant while denying his back-wages and continuity of service. Needless to mention that the workman will be entitled for all the wages from the date of award i.e., with effect from 20.11.2007 as the Labour Court ordered his appointment as a fresh candidate.

8. With the above observations, this Writ Petition is disposed of.

There shall be no order as to costs.

09.01.2025

Neutral Citation : no
grs

To

The Hon'ble Presiding Officer,

<https://www.mhc.tn.gov.in/judis>



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D.BHARATHA CHAKRAVARTHY, J.

grs

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