



W.P.No.2150 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.02.2024

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.2150 of 2023

and

WMP.No. 2234 of 2023

R.Poornima

...Petitioner

vs.

The Management,
Peria Karamalai Tea and Produce Company Limited,
286, Race Course Road,
Coimbatore-641 018.

...Respondent

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the entire proceedings culminating in the Impugned Order dated 07.09.2020 passed by the Presiding Officer, Additional Labour Court, Coimbatore, in Computation Petition No.37 of 2021, bearing CNR No.TNCB04-000101- 2021, to quash the same and consequently direct the respondent to comply with the Award dated 09.07.2020 passed by the Presiding Officer, Additional Labour Court, Coimbatore and consider the Petitioner's Representation dated 21.04.2022 within a stipulated time frame.



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For Petitioner : Mr.Kishore Balasubramanian
For Respondent : Mr.A.E.Ravichandran

ORDER

Writ petition is filed challenging the order passed in C.P.No.37 of 2021.

2. The petitioner joined the services of the respondent in the Head Office at Coimbatore with effect from 01.04.2008 and served for about 9 year 4 months. The petitioner was terminated from service with effect from 01.07.2017 on the ground that petitioner's services were no longer required due to the shifting of the registered office from Coimbatore to Kolkata. The petitioner challenged the termination order before the Additional Labour Court, Coimbatore, and the same was numbered as I.D.No.24 of 2018. The Additional Labour Court Coimbatore, vide order dated 09.07.2020 set aside the termination order and consequently directed the respondent to reinstate the petitioner into service with continuity of service and other



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benefits, either in the head office at Coimbatore or in the Estate Office at Valparai based on suitability and availability of vacancy within one year from the date of coming into force of the Award. Thereafter the petitioner was issued with a letter by the respondent on 25.09.2020 offering her employment effective from the date of her joining without backwages at Estate Office in, Valparai. The petitioner was directed to join within 30 days from the receipt of the letter and it was further clarified that all terms of employment would remain the same. The petitioner did not report at the transferred place due to some confusion on the place of her posting. Thereafter the petitioner exchanged communications with the respondent. On 16.04.2021, the petitioner reported for duty at the Estate office in Vellamalai estate, but she was refused entry, as the group manager was unaware of her posting at the said estate. Hence the petitioner visited the head office on 19.04.2021, but she was refused entry at the gate. The petitioner thereafter filed computation petition in C.P.No. 37 of 2021 claiming salary arrears from 14.10.2020 to 31.10.2020 and from 01.11.2020



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to 31.08.2021 at Rs.2,03,563/-. The Labour Court on consideration of the application dismissed the same on the ground that it had no jurisdiction to adjudicate the same under Section 33 (C)(2) of the I.D. Act. Challenging the Award of the Labour Court the petitioner has filed the above writ petition for the above relief.

3. The respondent filed counter in the C.P stating that the respondent complied with the Award of the Labour Court in I.D.24 of 2018 by offering the petitioner posting at their Valparai Estate Office, but the petitioner did not join duty. The respondent further disputed the allegation of the petitioner that the respondent denied duty to the petitioner. The respondent's further case was that it was made very clear to the petitioner even in the beginning that there was no vacancy in the Coimbatore office. Though the respondent sent a letter as early as on 05.11.2020 offering employment to the petitioner, she refused to join duty, inspite of receiving the same on the very next day. Therefore the respondent stated that the



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petitioner was not interested in joining duty. According to the respondent for more than one year the vacancy in the Vellamalai estate office was reserved only for the petitioner, but she did not report for duty. The respondent therefore submitted that as the petitioner failed to report for duty inspite of several remainders, the respondent had no liability to pay any amount to the petitioner. The respondent hence prayed that the petition deserved to be dismissed.

4. The learned counsel for the petitioner submits that the Labour Court erred in thinking that the computation petition was not maintainable under Section 33(C) (2) of the I.D. Act on the erroneous assumption that there was a dispute between the parties on the place of posting. According to the learned counsel the Labour Court failed to note that there is distinction between reinstatement and posting. The Labour Court by erroneously dismissing the petition deprived the petitioner her legitimate right to reinstatement. The learned counsel further submitted that the



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petitioner was refused employment in Valparai office when she reported for duty and therefore she was justified in filing the claim petition. The learned counsel therefore prayed that the writ petition be allowed and the Award of the Labour Court be set aside.

5. The learned counsel for the respondent on the other hand submitted that the Labour Court was justified in rejecting the claim petition, as it is the petitioner who failed to join duty at Valparai office inspite of the reinstatement order dated 25.09.2020. The learned counsel submitted that Labour Court rightly appreciated the entire facts in proper perspective and therefore the Award deserved to be confirmed.

6. I have heard both the learned counsels and I have perused the materials placed on record.

7. It is not disputed that the petitioner was directed to be reinstated by the respondent without backwages either in the head office at, Coimbatore or in Valparai estate office vide Award dated 09.07.2020. Soon after the Award of the Labour Court on 09.07.2020, the respondent offered



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to the petitioner, employment at Valparai office on 25.09.2020. The petitioner right from 25.09.2020 did not report at the office at Valparai but was merely exchanging emails giving various reasons for not joining the office at Valparai. The documents filed by the parties would clearly reveal that the petitioner was not at all interested in joining duty at Valparai. It was only in the reply dated 21.04.2021, to the legal notice issued by the respondent on 20.04.2021 that, she came up with the excuse that she reported for duty at Valparai but was denied permission to join. Even in the reply dated 21.04.2021 the petitioner did not even whisper about the date of reporting at Valparai. It was only in the reply notice sent to the Advocate that the petitioner for the first time stated the reporting date as 16.04.2021. The Labour Court considering the evidence and as also the exchange of communications by the parties, held that the wholesome conduct of the petitioner showed that she was very particular in claiming her earlier post at Coimbatore. The Labour Court rightly held that the petitioner was playing hide and seek by raising queries on the terms and



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conditions, though the same were made clear even in the offer of employment at Valparai. Assuming that the dispute was with regard to the posting and not employment, unless and until the petitioner is able to establish that she was denied employment right from 14.10.2020, the date from which she claimed salary, the claim petition cannot be entertained. The petitioner has not given any plausible reasons for not reporting for duty prior to 16.04.2021. The petitioner is in effect claiming salary for the period she voluntarily did not work. The Labour Court has appreciated the entire evidence properly and has given its factual findings thereon. I therefore find no flaw in the Award of the Labour Court and hence the same is confirmed.

In view of the above, I find no merits in the writ petition and the same is dismissed. There shall be no order as to costs. Consequently connected WMP is closed.

05.02.2024

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Index:Yes/No

Neutral Citation:Yes/No

To

1.The Management,
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286, Race Course Road,
Coimbatore-641 018.

2. The Presiding Officer,
Additional Labour Court,
Coimbatore .



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N.MALA,J

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