



WEB COPY

W.P.No.16136 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.16136 of 2012

1.E.Thamilarasan, (died),
S/o.S.Elangannan,
5A.Block, Chemitry Road,
Old Washermenpet,
Chennai - 600 021.

2.E.Kannaki ... Petitioners
[P-2 substituted as LR of the deceased sole petitioner *vide* order dated
03.03.2022 in W.M.P.No.38057/2017 in W.P.No.16136/2012]

versus

1.The Director (Administration),
Madras ENT Research Foundation (P) Ltd.,
1, First Cross Street,
Off Second Main Road,
Raja Annamalaipuram,
Chennai - 600 028.

2.The Presiding Officer,
Labour Court, Chennai. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records connected with the impugned award dated 28.01.2012 made in I.D.No.362 of 2009 on the file of the Labour Court, Chennai, the second respondent herein and quash the same and further direct the first respondent to reinstate the petitioner with continuity of service along with backwages and all attended benefits.



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For Petitioner : Mr.S.Sivakumar
For Respondent No.1 : M/s.Meenakshi Sundaram
For Respondent No.2 : Labour Court

ORDER

The Writ Petition has been filed challenging the award of the learned Presiding Officer, III Additional Labour Court, Chennai, dated 28.01.2012 made in I.D.No.362 of 2009.

2. Heard Mr.S.Sivakumar, learned counsel for the petitioner and M/s.Meenakshi Sundaram, learned counsel for the first respondent and perused the materials available on record.

3. The above industrial dispute was filed by the deceased first petitioner by alleging that he has been terminated and claimed reinstatement and other benefits. But the industrial dispute was dismissed on 28.01.2012. Challenging the same, this writ petition has been filed by the first petitioner. During the pendency of these proceedings, the first petitioner died and his mother has been impleaded as the second petitioner for representing this case.



4. The learned counsel for the petitioners submitted that the workman, who was the deceased first petitioner, was suffering from “Deep Vein Thrombosis”. He further submitted that due to the disease and family situation, he had submitted a letter of resignation on 24.03.2009. On 08.04.2009, the deceased first petitioner has sent another letter to withdraw his resignation and the same was received by the respondent Management on 09.04.2009. But the deceased first petitioner was not reinstated into service and hence, he has raised an industrial dispute.

5. The argument of the first respondent management is that immediately after the deceased first petitioner had submitted the resignation letter on the ground that he was suffering from “Deep Vein Thrombosis”, it was accepted on the same day and hence, there is no question of withdrawing it at any future point of time. Hence, the letter alleged to have been sent by the deceased first petitioner on 08.04.2009 is of no consequence. It is further submitted that the deceased first petitioner has received all his terminal benefits and nothing survives now. However, the learned counsel for the petitioners attracted the attention of this Court that even in the letter of resignation, the deceased first petitioner has stated that



there was only provident fund dues payable to him and no other dues pending with the first respondent management.

6. The learned counsel for the first respondent submitted that the deceased first petitioner was contesting the matter and hence, he did not intend to encash the cheque, which was issued to him at the time of his resignation and hence, it should not be ordered to pay benefits payable to him.

7. Even as per the submission of the learned counsel for the petitioner, the deceased first petitioner has received the cheque. If the deceased first petitioner did not choose to encash the same, he ought to have returned it atleast now. If the deceased first petitioner could prove that the cheque still remains with him without encashment, then it is possible to make any further orders on that score. But the learned counsel for the petitioners makes an empty argument that the deceased first petitioner did not encash the cheque given to him. However, it is not impossible for the first respondent to check his accounts in order to find out whether the deceased first petitioner had encashed any cheques issued to him subsequent to the acceptance of his resignation. If the cheque is encashed, then the



deceased first petitioner and the second petitioner cannot have any dues claimed against the first respondent.

8. On merits, the Labour Court has arrived at a conclusion on the materials placed before it that the first respondent management has accepted his resignation of the deceased first petitioner immediately after he submitted it and hence, there cannot be any illegal termination as claimed by the workman. The above finding, in my opinion, does not suffer from any infirmity in order to get any reversal of the result of the industrial dispute.

9. In the result, this Writ Petition is **dismissed**. However, if at any point of time, the second petitioner finds out any uncashed the cheque as alleged by her, she can make a representation to the first respondent and on that representation, the first respondent shall do the needful. No costs.

18.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

The Presiding Officer,
Labour Court, Chennai.

R.N.MANJULA, J.



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