



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

WP.No.19629 of 2013

and

MP.No.1 of 2013

The Management
Ashok Granites Limited
60/4A, Vellakkalpatti,
Chettichavadi Post,
Omalur Taluk,
Salem 636 012.

...

Petitioner

/vs/

1.The Presiding Officer,
Labour Court, Salem.

2.R.Perumal Gounder (deceased)

3.Rajathi

4.Sathiyapriya

5.Manimegalai

6.Jeevitha

...

Respondents

[R3 to R6 are substituted as
LRs of deceased R2]



WP.No.19629 of 2012

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records in I.D.No.218/2006 on the file of the Presiding Officer, Labour Court, Salem the 1st respondent herein, quash the award dated 03.12.2012 passed therein.

For Petitioner : Mr.M.R.Raghavan

For Respondents : R1 Court
: Mr.K.V.Shanmuganathan for R2

ORDER

This Writ Petition has been filed challenging the award of the Labour Court Salem, dated 03.12.2012 made in I.D.No.218 of 2006.

2. The deceased employee by name Perumal Goundar has been working in the petitioner's establishment as a 'Cutting Operator' since 1996. The petitioner dismissed him from service on 07.02.2006 due to certain proved misconduct. The employee has challenged the order of termination by way of preferring an industrial dispute in I.D.No.218/2006 by alleging that the termination is illegal. The labour Court has passed an award by setting aside the order of dismissal and a direction for reinstatement with continuity of service and with 25% back wages.



3. The learned counsel for the petitioner management submitted that the labour Court has chosen to set aside the order of dismissal on the ground that the order of dismissal has been passed only by taking into consideration of the previous punishments imposed on the employee, and that it is factually incorrect. When the Writ Petition was pending, Perumal Goundar died, and his legal heirs have been impleaded as respondents No. 3 to 6. It is the further argument of the petitioner that the deceased Perumal Goundar had been on unauthorized absence for 63 days in 4 months, and hence, he was given a charge on the allegation of unauthorized absence after a full fledged disciplinary enquiry and on proof of the charge, he was dismissed from service. In the order of dismissal, dated 07.02.2006, it is stated that the charges against the Perumal Goundar have been proved and because of his continual absence, the production of the company is affected and allowing him to be in service will set a bad example for other employees.

4. It is correct to state that the order of dismissal has not been passed only by taking into account of the previous punishments imposed on the deceased employee. However, it should also be seen that the labour court was not convinced by the evidence produced to support the alleged misconduct. In fact,



the labour Court has made an exhaustive appraisal of the material produced before the court and has arrived at the conclusion that the deceased employee's medical certificate has not been considered and it is entered in attendance register as 'absent' continuously.

5. The learned counsel for the respondent submitted that the deceased Perumal Goundar was suffering with some skin disease due to his continual engagement in the quarry environment, amidst of heavy dust. It is probable that the deceased employee would have submitted a medical certificate due to the above medical condition. If the deceased was unwell due to his ailment, it cannot be viewed as a wilful absence, and the management could have considered the medical certificate produced by him. After all, the employee is said to have suffered an occupational disease in view of his work environment.

6. Whatever may be the case, Perumal Goundar is no more now. His legal heirs, who have been impleaded as respondents 3 to 6, cannot be expected to contest the grounds raised by the management in the Writ Petition, for the very reason that the facts regarding the domestic enquiry could be well within the knowledge of the deceased employee.



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WEB COPY 7. In view of the above state reasons, this Writ Petition stands **dismissed**.

There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

23.10.2024

Internet : Yes/No
Speaking: Non-Speaking
Neutral: Yes/No
jrs

To
1.The Presiding Officer,
Labour Court, Salem.



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R.N.MANJULA, J.

jrs

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