



W.P.No.29387 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.29387 of 2011

V.Raja

... Petitioner

Vs.

1. The Management,
Vastrakala Export Pvt., Ltd.,
16-A, Kasthuri Ranga Salai,
Alwarpet,
Chennai – 600 018.

2. The Presiding Officer,
I Additional Labour Court,
Chennai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the second respondent's order in I.D.No.175/2007 dated 10.02.2011 to quash the portion of the order which is denying the reinstatement with full back wages and other attendant benefits.

For Petitioner : Mr.P.Solomon

For Respondent : Mr.J.James for R1

R2-Labour Court



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ORDER

Heard Mr.P.Solomon, the learned counsel for the Petitioner and Mr.J.James, the learned counsel for the first respondent.

2. The petitioner has filed this writ petition challenging the order of the I Additional Labour Court, Chennai dated 10.02.2011 in I.D.No.175/2007. The petitioner has raised a 2A dispute consequent to his dismissal from service by the first respondent Management. After hearing both sides, the Labour Court has passed an award by partly allowing the claim made by the petitioner by giving a lumpsum compensation of Rs.50,000/-. The petitioner has filed this writ petition stating that he is entitled to reinstatement along with back wages and all other service benefits and it is wrong on the part of the second respondent to pass an award by restricting the petitioner's entitlement to Rs.50,000/- as lumpsum compensation.

3. Mr.P.Solomon, the learned counsel for the petitioner, submitted that the petitioner's wife was sick and the petitioner was in a position to take leave frequently. It is further submitted that the Labour Court, without



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considering the same, has proceeded to pass an award for compensation by denying the reliefs of reinstatement and other benefits. It is further submitted that the Labour Court has given a conclusion that the punishment of dismissal imposed for the alleged misconduct on the part of the petitioner was disproportionate and it ought to have granted the relief of reinstatement.

4. On perusal of the records it is seen that the petitioner has been given with the charges in view of his frequent absence without notice. Even according to the admission of the petitioner, he had been on frequent leave during the time when he was in service and frequently he had availed frequent leave without prior notice. The fact that the petitioner was a frequent absentee could not be denied. However, the submission of the learned counsel for the petitioner is that the petitioner was compelled to be on leave in view of the his wife's ailment. It is to be noted that the first respondent Management is an export company involved in exporting embroidery clothes. The petitioner, being an Embroiders, if remained in frequent absence without notice, that would certainly affect the business of the first respondent.



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5. The petitioner had admitted that during the month of February, 2006, he had availed 19 days leave and he reported to duty for only one day.

If there is no consistency in reporting to duty by an employee, he cannot expect his employer to avail his services. Engaging the petitioner who was in the habit of frequent absence would only affect the interest of the first respondent Management. The petitioner had raised a concern that he was absent only for 67 days but, the respondent Management had noted as 73 days absent. The fact remains that the petitioner was absent for 67 days in a year even according to his own admission. If the personal inconveniences of the workman does not allow him to work efficiently, that is unfortunate. But, he cannot expect his Management to adjust the demand of his business or loose the business, for the sake of a worker who was in the habit of availing leave even without any prior notice.

6. The second respondent / Presiding Officer had appreciated the matter in issue in a comprehensive manner and arrived at a conclusion that the punishment of dismissal, is grave though found to be heavy, the petitioner's conduct also does not deserve him the relief of reinstatement. Having arrived at such a finding on the basis of the materials and appreciating the conduct of the petitioner, the Labour Court thought it fit to



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award a lumpsum compensation in lieu of reinstatement. Thus, the second respondent has awarded Rs.50,000/- as lumpsum compensation.

7. Mr.J.James, the learned counsel for the first respondent, submitted that the lumpsum compensation was received by the petitioner on 22.06.2011 and only after receiving the same, he had chosen to file this writ petition challenging the award. The petitioner after having enjoyed the fruits of the relief granted to him has filed this writ petition challenging the award.

8. The petitioner has been given with similar charges on earlier occasions and he was given with lesser punishment. But thereafter also he did not correct his conduct and he continued to be in the habit of taking frequent leave and by causing inconvenience to the establishment. In fact the petitioner has received the lumpsum compensation of Rs.50,000/- which was sent to him through cheque on 22.06.2011. However, the learned counsel for the petitioner submitted that even the compensation is not reasonable and it is too low.

9. The Labour Court has thoroughly appreciated the matter at length and had rightly arrived at a conclusion that the petitioner is not entitled for



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the relief of reinstatement, but be given with the relief of compensation and had determined the quantum according to its discretion.

11. Though I do not find any illegality in the impugned order, taking into consideration of the cost of living and other attendant circumstances, I feel the compensation can be enhanced and awarded.

12. Accordingly, this Writ Petition is disposed and the award of the second respondent is modified only in respect of awarding an enhanced compensation of Rs.25,000/- in addition to the compensation already awarded by the first respondent, to the petitioner. In all other aspects, the impugned award remains the same. No costs.

29.08.2024

Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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