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W.P. No.32968 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2024

CORAM

THE HONOURABLE Mr.

JUSTICE P.DHANABAL

W.P. No.32968 of 2012
and W.M.P. No.1 of 2012 and 2 of 2013

The Management of Pentadaewha Auto Parts Ltd.,
(now known as M/s.INZI Control India Ltd.,)
No.72, Bangalore High Road, Irunkattukottai Village,
Sriperumputhur Taluk, Kancheepuram District.

represented by its Managing Director /

Authorized Signatory Petitioner

VS

1. The Presiding Officer,
III Additional Labour Court, Chennai.

2. K. Narayanan S/o. Kanniappan (late) Respondents

PRAYER: This Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records connected with I.D. No.177 of 2005 on the file of the 1st respondent and to quash the award dated 19.06.2012.

For Petitioner : Mr. M.R. Dharani Chander.



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For Respondents : R1 - Court

Mr. B. Manoharan [for R2]

ORDER

This Writ Petition has been filed by the petitioner to call for the entire records in I.D. No.177 of 2005 dated 19.06.2012 on the file of the 1st respondent and to quash the same.

2. The shorts facts necessary to dispose the case are as follows:

The Writ petitioner is the Management of Pentadaewha Auto Parts Ltd., situated at Irungattukottai Village, Sriperumbudur Taluk, Kancheepuram District. The 2nd respondent herein was working under the petitioner and he was engaged as 'Trainee' by the petitioner and paid stipend during the period of traineeship. The 2nd respondent was engaged as Trainee, where the arrangement is that they would be given on-the-job training that involves operation of machinery. At the end of the traineeship period, the trainees are considered for permanent post depending upon their performance during the traineeship period and the vacancy. The 2nd respondent was taken as a 'Technical Trainee' through letter dated 01.10.2000 for a period of 3 years and his monthly stipend was fixed as Rs.1,960/-. The 2nd respondent was subjected to periodical appraisal and was found that his attendance was not



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satisfactory. Hence the letter dated 08.08.2001 was issued calling upon him to improve his attendance during the further training period and the 2nd respondent also gave a written undertaking that he would improve his attendance and he was given order of extension of trainee dated 25.07.2002 based on the assurance and also in order to give him one opportunity to improve his attendance as well as his training performance. Even after the said undertaking given by the 2nd respondent, he continued to be irregular in his attendance. However, he had stopped reporting for training from 25.10.2002. While so, the 2nd respondent had raised a dispute as if he has been terminated from service by the petitioner orally. On the other hand, the 2nd respondent was taken up technical training for a period of 3 years and on his own, he had abandoned his training from 25.10.2002. Therefore, the question of refusal of employment or termination from services do not arise. The 2nd respondent raised dispute in I.D. No.177 of 2005 before the 1st respondent and the Labour Court has directed to reinstate the 2nd respondent with continuity of service, but without backwages and other attendant benefits. Challenging the said order, the present Writ petition is filed by the Management.

3. No counter was filed by the respondent.



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4. The learned counsel appearing for the petitioner would contend that the 2nd respondent was appointed as 'technical trainee' for a period of 3 years through a letter dated 01.10.2000 and his monthly stipend was fixed at Rs.1,960/-. During the training period, he was irregular and his attendance was not upto the mark, thereby, a letter dated 08.08.2001 was issued calling upon him to improve his attendance during the further training period and the 2nd respondent also gave a written undertaking that he would improve his attendance. In spite of that, he was irregular and thereafter, he had stopped reporting for training from 25.10.2002 and therefore, he has not completed his training. While so, he raised an industrial dispute in I.D. No.177 of 2005, as if he was terminated from services by the petitioner orally. In fact, the 2nd respondent himself absented from training from 25.10.2002 and thereafter, he never approached the petitioner and after 3 years, he raised an industrial dispute, as if he was terminated orally. Before Labour Court, on the side of the 2nd respondent, he was examined as PW1 and also marked Ex.P.1 to Ex.P.7. On the side of Management, no witness was examined and no documents were marked. After analysing the evidence, the Labour Court partly allowed the petition and directed the Writ petitioner to reinstate the 2nd respondent without backwages and attendance benefits with continuity of services. The above said order is not in accordance with law, since the 2nd



respondent was a 'Trainee' and he himself absented, without completing the training. Therefore, the Labour Court ought not to have ordered for reinstatement with continuity of service.

5. In support of his contention, the learned counsel appearing for the petitioner has relied upon the following judgments:-

(i) *Kalyani Sharp India Ltd., vs. Labour Court No.I, Gwalior and others reported in 2000 (1) LLJ 1346 (SC).*

(ii) *Mukesh Tripathi vs. Senior Divisional Manager, LIC and others reported 2004 III LLJ 740 (SC).*

(iii) *UP State Electricity Board vs. Shiv Mohan Singh and another reported in 2005 I LLJ 117 (SC).*

(iv) *Dhampur Sugar Mills Ltd., vs. Bhola Singh reported 2005 I LLJ 1084 (SC).*

(v) *Civil Appeal No.229 / 2005 (SC) MD Hindustan Photo Films and Anr. vs. H.B. Vinobha and Ors.*

(vi) *Kishore Chandra Samad vs The Divisional Manager, Orissa State Cashew Development Corporation Ltd., D Henkanal reported 2006 I LLJ 685 (SC).*

(vii) *National Smaller Industries Ltd., vs. V. Lakshminarayanan reported in 2007 I LLJ 571 (SC).*



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(viii) Haryana Power Generation Corporation Limited and Ors vs. Harkesh Chand and ors reported in 2013 I LLJ 516 (SC).

(ix) Kamal Kumar vs. Presiding Officer, Labour Court and others reported in 1998 II LLJ 877 (High Court of Delhi).

(x) Sri Rama Vilas Service Ltd., vs. Regional Provident Fund Commissioner reported in 2000 I LLJ 709 (High Court of Madras).

(xi) The Management of TI Diamond Chain Ltd., Madras vs. The Presiding Officer, II Additional Labour Court, Madras and others reported in 2003 I LLJ 198 (High Court of Madras).

(xii) Management of Otis Elevator Co., (India) Ltd., vs. Presiding Officer, Industrial Tribunal III and another reported in 2003 II LLJ 61 (High Court of Delhi).

(xiii) Vijayalakshmi Insecticides and Pesticides, Hyderabad vs. Chairman, Industrial Tribunal cum Labour Court, Visakhapatnam and others reported in 2004 II LLJ 62 (High Court of Andhra Pradesh).

(xiv) Souther Roadways Ltd., Madras vs. E.S.I Corporation, Madras reported in 2007 I LLJ 922 (High Court of Madras).

(xv) Chauhan Mehbub Osman vs. State of Gujarat reported in 2008 III LLJ 484 (High Court of Gujarat).



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(xvi) Vijay Kumar vs. Presiding Judge, Labour Court and another reported in 2009 II LLJ 116 (High Court of Himachal Pradesh).

(xvii) Rane Brake Lining Ltd., vs. The Presiding Officer, Labour Court, Pondicherry and others reported in 2016(2) LLN 722 (High Court of Madras).

(xviii) Terminated Full Time Temporary LIC Employees Welfare Association vs. Senior Divisional Manager LIC, Tanjavur.

(xix) State Coopeative Land Development Bank Ltd., vs. Taz Mulk Ansari & others reported in 1993 III LLJ 666 (SC).

(xx) Ram Prasad etc., vs. State of Rajasthan and others reported in 1993 I LLJ 766 (HC).

(xxi) Life Insurance & Anr vs. Rajeev Kumar Srivastava reported in 1994 II LLJ 1136 (High Court of Allahabad).

(xxii) The Haryana State Federation of Consumer Cooperative Wholesale Store Ltd., vs. Presiding Officer, Industrial Tribunal cum Labour Court Hissaf and another reported in 1995 II LLJ 1054 (High Court of Punjab & Haryana).

(xxiii) Rajasthan State Road Transport Corporation vs. Ramavtar Sharma reported in 1998 I LLJ 973 (High Court of Rajasthan).



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(xxiv) Navodaya Vidyalaya vs. K.R Hemavathy reported in 2001 II

LLJ 1613 (High Court of Karnataka).

(xxv) Management of MRF Ichiputhur vs. Presiding Officer, Labour Court, Vellore and others and between Ravichandran V and others vs. Management of MRF Ltd., and another reported in 2004 II LLJ 626 (High Court of Madras).

6. The learned counsel appearing for the 2nd respondent would submit that the 2nd respondent was appointed as 'technical trainee' on 01.10.2000 for a period of 3 years. While he was appointed in the Press Shop in the operation of Presses and spot welding, his salary was fixed at Rs.1,200/- per month on 15.10.1999 as temporary trainee. After completion of training, the petitioner appointed the 2nd respondent as 'technical trainee'. The period for technical trainee is 3 years. After completion of training, the petitioner assured that the 2nd respondent would be appointed as permanent employee. While so, on 01.10.2000, the petitioner issued a letter of appointment of Technical Trainee for the 1st year with fixed salary of Rs.1,960/- per month. Subsequently, on 08.08.2001, for the 2nd year with increased fixed salary of Rs.2,090/- per month and finally, for the 3rd year on 25.07.2002 with increased fixed salary of Rs.3,100/- per month. While so, the 2nd respondent's father died on 15.06.2000 and his brothers Arumugam and Gopal



also died on 11.07.2000 and 30.09.2001 respectively. The 2nd respondent's sister Manjula is a mentally retarded person. Due to the sudden death of his family members and due to family circumstances, he was forced to take leave in regular interval and he had informed the same to the Management. While so, in the 3rd year training period, the 2nd respondent took leave for 20 days continuously and later reported for work. At that time, the Management compelled the 2nd respondent to put signature in a blank paper and allowed to work. While so, on receipt of salary of Rs.1,200/-, he enquired the same and the Management stated that once again he was appointed as 'trainee' for a period of 6 months and he was paid trainee salary, since the 2nd respondent refused to receive the salary, the Management terminated the 2nd respondent from service without serving any termination order. Therefore, he raised an industrial dispute and the Labour Court after taking into consideration of all the aspects, has correctly awarded for reinstatement with continuity of service. However, refused to order for backwages and all other attendant benefits. Therefore, now the Management has challenged the said order and the Labour Court has passed a reasoned order and therefore, the present Writ petition is liable to be dismissed.

7. Heard both sides. Perused all the materials available on record.

8. In this case, there is no dispute in respect of the relationship



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Management i.e., the petitioner herein. Therefore, the Labour Court has passed a reasoned order. The Labour Court has passed an order to reinstate the 2nd respondent into service with continuity of service and denied the backwages and all other attendant benefits. Therefore, there is no any infirmity found in the order of the Labour Court. However, the dispute has been pending between the parties for more than 12 years and the 2nd respondent was also not reinstated by the Management till date. The 2nd respondent also has not challenged the order passed by the Labour Court by declining the backwages and other attendant benefits.

10. As far as judgments relied on by the petitioner are concerned, they will not be applicable to the present facts of the case, since the Writ petitioner has failed to prove that the 2nd respondent was a trainee. The Industrial Dispute was also filed after completion of training period and no evidence was adduced by the Writ petitioner to prove that the 2nd respondent was a trainee.

11. Therefore, considering the above said long delay and to put an end to the litigation and to meet the ends of justice, it is appropriate to award a sum of Rs.3 lakhs towards compensation in lieu of reinstatement. Therefore, the order passed by the Labour Court is modified to the effect that the Management has to pay a sum of **Rs.3 lakhs (Rupees Three Lakhs only)** to



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the 2nd respondent / Workman towards compensation.

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12. In the result, this Writ petition is partly allowed and the order passed by the Labour Court in I.D. No.177 of 2005 is modified to the effect that the workman is entitled for compensation of Rs.3 lakhs in lieu of reinstatement. The Management is directed to pay the above said amount of Rs.3 lakhs within 4 weeks from the date of receipt of a copy of this order, failing which, the award will carry interest at 9% per annum.

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Index : Yes/No
Speaking order/non-speaking order
mjs

P.DHANABAL, J.,

mjs

To

The Presiding Officer, III Additional Labour Court, Chennai.



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