



Writ Petition No.33429 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

Writ Petition No.33429 of 2012

and

M.P.No.1 of 2012

The Employer/Management,
Vinayaka Mission's Medical College and Hospital,
Keezhakasakudimedu,
Karaikal - 609 609.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Karaikal.

2.K.Nallathambi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records in connection with the award dated 10.04.2012 made in I.D.No.6 of 2008 on the file of the first respondent and quash the same.

For Petitioner : Mr.John

For Respondents : Mr.B.Jawahar [R2]



Writ Petition No.33429 of 2012

ORDER

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This writ petition has been filed seeking to quash the award passed by the Labour Court, Karaikal, in I.D.No.6 of 2008 dated 10.04.2012.

2. The short facts necessary for disposal of the present writ petition are as follows:

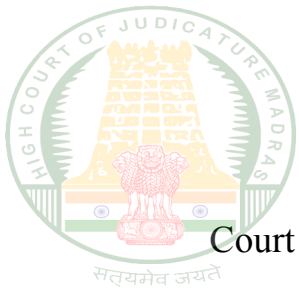
The writ petitioner is the Management of Vinayaka Mission's Medical College and Hospital, Karaikal. The second respondent was working as a driver under the petitioner Management from 01.02.2007 to 16.02.2008 and was earning a sum of Rs.3,500/- p.m. While so, on 16.02.2008, he was not permitted to enter the institution and he was also not paid wages. The second respondent requested the Management to provide employment to him, but the Management declined. Thereafter, the second respondent made a complaint before the Labour Officer, Karaikal. Before the Labour Officer, the Management submitted that the second respondent was engaged as a casual driver on need basis and the second respondent absented himself without any intimation. During the conciliation proceedings, the Management was ready to pay salary of Rs.2,407/- p.m. from 16.01.2008 to 02.02.2008. Therefore, the second



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respondent raised an industrial dispute for reinstatement and arrears of salary. The Labour Court allowed the industrial dispute and ordered to reinstate the second respondent into service and also directed the Management to pay back wages from the date of stoppage of work till reinstatement. Aggrieved by the said order, the present writ petition has been filed by the Management.

3. Learned counsel appearing for the petitioner would submit that the second respondent was engaged as a casual driver on 04.06.2007. During his duty, he had altercation with the permanent employees on 02.02.2008. Thereafter, he stopped reporting duty from that date onwards. The Management neither denied employment nor stopped him from reporting duty, but, the second respondent himself had chosen not to report duty. Thereafter, the Management, only upon notice from the conciliation officer, came to know about the case. During the conciliation proceedings, they had stated that they never prevented the second respondent from reporting duty and the second respondent himself had chosen not to report duty. Thereafter, the second respondent raised an industrial dispute before the Labour Court and the Labour Court passed an order directing the Management to reinstate the petitioner. The Labour



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Court failed to consider the fact that since the second respondent was only a casual employee, he has no right to continue the employment and not entitled for reinstatement. The second respondent worked for less than a year. Therefore, the back wages for that period could not arise. The Management also produced the attendance report to establish that the petitioner absented himself from 04.02.2008 onwards. Further, the second respondent had also refused to receive salary for the period from 16.01.2008 to 02.02.2008. The Labour Court had failed to consider all these aspects and hence, the impugned order passed by the Labour Court is liable to be set aside.

4. Learned counsel for the second respondent would submit that the second respondent was working as a driver in the petitioner's institution from 01.02.2007 to 16.02.2008 and was earning a sum of Rs.3,500/- p.m. Suddenly on 16.02.2008, he was not allowed to report duty by the security of the Management without any valid reason. Thereafter, he requested the Management to reinstate him into service, but they refused. Hence, he made a complaint before the Labour Officer, Karaikal and the conciliation proceedings was failed and thereafter, he raised an industrial dispute before the Labour Court, Karaikal. Before the



Writ Petition No.33429 of 2012

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Labour Court, the second respondent examined himself as PW-1 and marked Exs.P1 to P4. On the side of Management, RW-1 was examined and Exs.M1 to M6 were marked. After hearing both sides, the Labour Court directed the writ petitioner to reinstate the second respondent into service and also to pay back wages from the date of stoppage of work till reinstatement. The Labour Court has passed a reasoned order, which does not require the interference of this Court.

5. This Court heard both sides and perused the records.

6. In this case, there is no dispute that the second respondent was working under the writ petitioner as a driver from 04.06.2007 to 16.02.2008. While it is the case of the second respondent that the Management has refused to allot work to him, it is the case of the Management that the second respondent quarrelled with the permanent employees on 02.02.2008 and absented himself and not reported for duty. Therefore, it is clear that the second respondent was not on duty after 16.02.2008. When it is the case of the petitioner Management that they are ready to provide employment to the second respondent, but the second respondent is refusing, they ought not to have filed the present

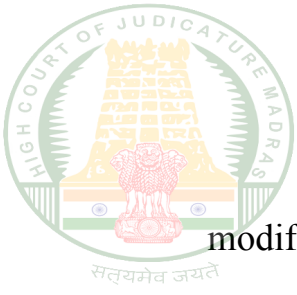


Writ petition challenging the impugned order passed by the Labour Court directing the petitioner to reinstate the second respondent into service.

Further, the second respondent has not filed any writ petition challenging the impugned order. Hence, it is clear that the second respondent is ready to accept the employment. The Labour Court in the award elaborately discussed about the dispute and passed reasoned order.

7. Though the Labour Court has passed a reasoned and detailed order after considering the evidence adduced on both sides, due to efflux of time, it is not appropriate to direct the petitioner to reinstate the second respondent with back wages and continuity of service. At the same time, this Court is of the view that the petitioner may be directed to pay compensation to the second respondent. It is admitted fact that the second respondent was working as a driver in the petitioner institution for a monthly salary of Rs.3,500/-. Therefore, it is appropriate to award a lump sum of Rs.3,00,000/- towards compensation in lieu of reinstatement.

Accordingly, the writ petition is partly allowed and the award passed by the Labour Court in ID No.6 of 2008 dated 10.04.2012 is



Writ Petition No.33429 of 2012

modified and the petitioner Management is directed to pay a sum of
Rs.3,00,000/- [Rupees Three Lakhs only] to the second respondent in
lieu of reinstatement, within two (2) months from the date of this order.
No costs. Consequently, connected miscellaneous petition is closed.

20.12.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm

To
The Presiding Officer,
Labour Court,
Karaikal.



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Writ Petition No.33429 of 2012

P.DHANABAL, J

gm

Writ Petition No.33429 of 2012

20.12.2024