



W.P.No.16361 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.16361 of 2018

R.Kanniappan

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The Management of MRF Limited,
Thirutani Road,
Arakkonam – 631 003.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the award pronounced by the 1st respondent, Principal Labour Court, Vellore in I.D.No.216 of 2003 dated 02.02.2012 and quash the same and further direct the 2nd respondent viz the Management of MRF Limited, Arakkonam to reinstate the petitioner in service with full back wages, continuity of service with all other attendant benefits.

For Petitioner : Mr.V.Prakash, Senior Counsel
for Mr.K.Sudalai Kannu



W.P.No.16361 of 2018

For R1

: Court

WEB COPY For R2

: Mr.M.Vijayan for
M/s. King & Partridge

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ORDER

This Writ Petition is filed to call for the records in connection with the award pronounced by the 1st respondent, Principal Labour Court, Vellore in I.D.No.216 of 2003 dated 02.02.2012 and quash the same and further direct the 2nd respondent viz the Management of MRF Limited, Arakkonam to reinstate the petitioner in service with full back wages, continuity of service and all other attendant benefits.

2.The workman will be referred to as the petitioner and the Management will be referred to as the respondent.

3.The petitioner joined as an apprentice in the respondent company, which is engaged in the manufacture of tyres, tubes and flaps. The petitioner was engaged as a tyre builder in April 1989 and he was placed under probation with effect from 02.04.1993 to 01.10.1993. After the completion of the probation period he was confirmed on 02.10.1993. The petitioner was



W.P.No.16361 of 2018

suspended from service for a period of 15 days with effect from 12.09.2000 and a charge memo was issued to the petitioner on 14.03.2001 for misconduct of unauthorized absence for a period of 133 days from September 2000 to February 2001. The petitioner was issued with another charge memo on 10.09.2001 for unauthorized absence from March 2001 to September 2001 for a period of 139 days. The petitioner submitted his explanation on 18.09.2001 and as the said explanation was found to be unsatisfactory, the petitioner was terminated from service on 26.11.2001. The petitioner stated that after the period of suspension he reported for duty in the first shift on 29.09.2000 but he was prevented by the security guard at the gate from entering the respondent's premises. The petitioner therefore stated that because the respondent denied entry to the petitioner, he was not able to report for duty and therefore the order of termination by the respondent was illegal and liable to be set aside. The petitioner therefore challenged the termination order by raising the Industrial Dispute.

4.The case of the respondent on the other hand was that the performance of the petitioner right from the beginning was totally unsatisfactory. The petitioner was always irregular in attendance during the



W.P.No.16361 of 2018

period of his employment and in spite of several warnings he continued to be irregular. The petitioner was therefore suspended for his chronic unauthorized absence and other misconducts. The petitioner remained unauthorisedly absent from March 2001 to September 2001 for a period of 139 days for which he was issued a show cause notice cum suspension letter dated 10.09.2001. As the explanation given by the petitioner was found to be unsatisfactory, a domestic enquiry was conducted and in pursuance of the adverse report of the enquiry officer the petitioner was terminated from service on 26.11.2001.

5.The learned counsel appearing for the petitioner submitted that the Labour Court ought to have seen that the petitioner was prevented from entering the respondent's premises and therefore the respondent's charge that the petitioner was guilty of unauthorized absence was unsustainable. As far as the punishment is concerned the learned counsel for the petitioner submitted that the punishment of the termination from service was disproportionate to the nature of misconduct viz., unauthorized absence of 139 days.



W.P.No.16361 of 2018

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6.The learned counsel for the respondent on the other hand submitted that the Labour Court on an appreciation of the entire evidence on record factually found that the petitioner was a habitual absentee. The learned counsel further submitted that the Labour Court found that in spite of several warnings on earlier occasions the petitioner continued with the same misconduct of unauthorised absence and so it held that the dismissal order was valid.

7.I have heard both the learned counsels and I have perused the entire materials placed on record.

8.It is seen from the award of the Labour Court that the Labour Court has appreciated the voluminous documentary evidences filed by both sides and has given cogent reasons for finding that the petitioner was a habitual absentee and that the contention of the petitioner that he was prevented by the respondent company from entering the company was not proved by him. The Labour Court on an appreciation of the evidence found that the past record of the petitioner clearly proved that he was a habitual absentee and therefore it



W.P.No.16361 of 2018

could not be said that the punishment of termination from service was not justified.

9. In my view the Labour Court's findings on fact cannot be re-appreciated by this Court under Article 226 of the Constitution of India unless and until the findings of the fact are found to be perverse and based on no evidence. In so far as the quantum of punishment is concerned, I am of the view that the habitual absence amounts to violation of discipline and in the light of the facts of the present case where it is found that the petitioner had a history of unauthorized absence, the punishment imposed by the Management cannot be interfered with. In this regard the Judgments of the Hon'ble Supreme Court reported in 2009 (122) FLR 578 and 2008 (116) FLR 1139 are noteworthy.

10. One more aspect that was highlighted by the respondent's counsel is that, though the award was passed in the year 2012, the petitioner filed the writ petition after a lapse of 6 years in 2018. The learned counsel therefore submitted that the writ petition deserved to be dismissed even on the ground of delay and laches. The learned counsel relied on the Judgment of this



W.P.No.16361 of 2018

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N.MALA, J.
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W.P.No.16361 of 2018

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