



W.P.No.25378 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P.No.25378 of 2014

E.Gopal

... Petitioner

Vs.

1. The Presiding Officer,
II Additional Labour Court,
High Court Campus,
Chennai.

2. The Management,
Euro Lable Private Limited,
No.C-16, Mogappair Industrial Estate (West),
Chennai – 600 037.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified mandamus to call for the concerned records from the first respondents, quash the Award passed by the first respondent Labour Court dated 06.11.2013 in I.d.No.628 of 2005 and consequently direct the second respondent to reinstate the petitioner with full back wages, continuity of service and all attendant benefits.



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For Petitioner : Mr.D.Magesh
For Respondent : Mr.Arvind Subramanian
Senior Counsel
for Mr.M.Deepan for R2

ORDER

Heard Mr.D.Magesh, the learned counsel for the Petitioner and Mr.Arvind Subramanian, the learned Senior Counsel for the second respondent.

2. This Writ Petition has been filed challenging the order of the learned Presiding Officer of the II Additional Labour Court, Chennai dated 06.11.2013 in I.D.No.628/2005. After getting the failure report before the Commissioner, the petitioner had filed an Industrial Dispute on the allegation that he has been illegally terminated from service. The learned Presiding Officer has chosen to dismiss the Industrial Dispute on the ground that the petitioner has not established that he had been dismissed from service.

3. Mr.D.Magesh, the learned counsel for the petitioner, submitted that the petitioner had joined service during the year 2004 and thereafter he was illegally terminated without following any due procedure. It is further submitted that the second respondent had not produced any documents to



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show that they had called upon the petitioner to join in service. However, the learned Presiding Officer did not appreciate the facts in a proper manner and had chosen to dismiss the Industrial Dispute.

4. Mr.M.Arvind Subramanian, the learned Senior Counsel for the second respondent, submitted that the petitioner himself has marked the reply sent by the second respondent management letter dated 16.05.2005 as Ex.P2. It is claimed by the learned Senior Counsel for the second respondent that the offer given by the second respondent to the petitioner to join duty was not respected by him and hence it right for the Court below to dismiss the dispute brought by the petitioner.

5. On perusal of the records especially the cross-examination of the petitioner, he had stated that he was not aware whether the company has sent a letter dated 24.05.2005, inviting him to join duty. However he himself has submitted the reply sent by the Management dated 24.05.2005 as his side of the documents i.e. Ex.P2. The above contradiction in the evidence of the petitioner and the documents furnished by him would only show that the second respondent had sent a reply to the petitioner asking him to join duty but it was not accepted by the petitioner. When the petitioner, on his own



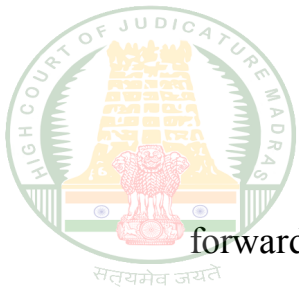
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volition did not accept the offer given by the second respondent calling upon him to join duty, he cannot claim that he has been terminated from service illegally. In fact, the petitioner had made an application for job on 31.05.2004. However, during the cross-examination he had stated that he had joined duty on 18.07.2005 and that is also not factually right. The petitioner had actually joined duty only on 05.07.2004.

6. In Ex.P2 which is a letter of the respondent dated 24.05.2005, it is categorically informed to the petitioner that he can be taken into service without challenging his service condition. The letter dated 24.05.2005 had been received by the petitioner and in fact the same has been produced as document before the Court during the proceedings. When the facts are so, the petitioner cannot turn around and claim that he had been dismissed from service. Had the petitioner honoured the reply sent by the respondent dated 24.05.2005 and joined duty, he could have continued to be in employment. Having not availed the offer to join duty, the petitioner cannot claim that he had been dismissed from service. In fact the petitioner did not produce any order of dismissal while conducting the proceedings before the Labour Court.

7. The records would make it clear that the petitioner did not come



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forward to accept the offer given to him to join duty. Even accordance to his own documents which has been produced as Ex.P2. So on the above background of facts and materials, the first respondent had arrived at a conclusion that the petitioner has not substantiated the fact that he has been dismissed from service illegally.

8. When the above fundamental fact has not been established, the petitioner cannot expect any relief in his favour. Since the order of the first respondent has been passed only after thorough consideration of the facts and evidence placed before the Court and in right appreciation of the same, I do not find any interference and hence the writ petition is liable to be dismissed.

9. In the result, the Writ Petition is dismissed. No costs.

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Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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To:

1. The Presiding Officer,
II Additional Labour Court,
High Court Campus,
Chennai.

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