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W.P.No.12593 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 16.02.2024

ORDER PRONOUNCED ON : 19.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.12593 of 2021

M.Jayakanthan

... Petitioner

/Vs./

The Chairman,
All India Manufacturers Organisation,
Round Table House,
69, Nungambakkam High Road,
Chennai – 600 034.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the Presiding Officer of the II Additional Labour Court, Chennai in I.D.No.568 of 2000 dated 14.08.2018 and quash the same and further direct the respondent to reinstate the petitioner in service with back wages and all benefits.

For Petitioner : Mr.R.Lawrence

For Respondent : Mr.P.Raghunathan for
M/s.T&S.Gopalan and Co.

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W.P.No.12593 of 2021

ORDER

This writ petition is filed to call for the records relating to the order passed by the Presiding Officer of the II Additional Labour Court, Chennai in I.D.No.568 of 2000 dated 14.08.2018 and quash the same and further direct the respondent to reinstate the petitioner in service with back wages and all benefits.

2.The petitioner joined as an attendant in the second respondent Industry on 21.04.1986 and was in continuous service for 13 years till his oral termination on 20.10.1999. According to the petitioner without conducting any enquiry the petitioner's services were terminated in violation of Section 25 F of the I.D.Act. As the conciliation proceedings failed, the petitioner raised a dispute before the Labour Court and the same was registered as I.D.No.568 of 2000.

3.The case of the respondent was that the petitioner was not orally terminated, but the petitioner had voluntarily abandoned the services. As the petitioner voluntarily abandoned the services there was no necessity to conduct



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enquiry. The respondent therefore prayed that the I.D. was meritless and the same deserved to be dismissed.

4.Before the Labour Court, the petitioner examined himself as W.W.1 and marked three documents and the respondent though did not lead any oral evidence filed Ex.M1 to Ex.M8. The Labour Court on consideration of the entire materials on record dismissed the claim petition. Aggrieved by the dismissal of the claim petition the petitioner has filed the above writ petition.

5.The learned counsel for the petitioner submitted that the Labour Court erred in thinking that the petitioner had abandoned the services. The learned counsel further submitted that the Labour Court erred in relying on Ex.M7 to conclude that the petitioner was offered employment by the respondent, but he refused to join. The learned counsel therefore prayed that the writ petition may be allowed.

6.The learned counsel for the respondent on the other hand submitted that the Labour Court appreciated the entire materials on record in proper prospective



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and rendered factual findings holding that the oral termination was not proved by the petitioner. The learned counsel submitted that in the absence of any perversity in the findings of the Labour Court, the same could not be interfered with by this Court.

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

8.It is seen that the Labour Court rejected the petitioner's plea of oral termination on the reasoning that none of the facts stated by the petitioner before the Labour Court were mentioned in the legal notice and reply notice. The Labour Court doubted the veracity of the facts raised by the petitioner in support of the plea of oral termination because the petitioner failed to refer to the same in his legal notice dated 20.10.1999 and in his reply notice dated 08.11.1999. Even the statement of the petitioner that he was coerced by the Management to submit his resignation was also disbelieved by the Labour Court not only because the petitioner did not mention the said fact in the legal notice and the reply notice but also because he failed to give any complaint to the police against the said action of



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the Management. When the matter was pending before the Conciliation Officer, the respondent under Ex.M7 dated 14.02.2000 offered employment to the petitioner, but he refused to join. The Labour Court therefore found that the petitioner had voluntarily abandoned work. It will be pertinent to note here that when the petitioner was cross-examined on Ex.M2 dated 02.11.1999, the reply of the respondent, whereunder the petitioner was offered employment, the petitioner did not deny the same but merely stated that he did not know (எனக்கு தெரியாது). The fact that the petitioner did not deny that the respondent even in the reply notice dated 02.11.1999 had offered employment, clearly shows that the petitioner's case of oral termination is not true. The Labour Court has rendered its findings on proper appreciation of the evidence on record, hence I find no perversity in the findings of the Labour Court. In view of the settled legal principles that the writ Court cannot sit as an appellate court and reappraise the evidence, I find no reason to interfere with the findings of the Labour Court which are based on evidence. Hence the award of the Labour Court is confirmed.

9. Accordingly the writ petition is dismissed. However there shall be no order as to costs.



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Index : Yes / No

Internet : Yes / No

Speaking Order/Non-speaking order
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To

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

2. The Chairman,
All India Manufacturers Organisation,
Round Table House,
69, Nungambakkam High Road,
Chennai – 600 034.

N.MALA, J.

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**PRE-DELIVERY ORDER IN
W.P.No.12593 of 2021**



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