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W.P.No.34258 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

Writ Petition.No.34258 of 2023
and WMP.No.34144 & 34145 of 2023

1. The Vice President,
Human Resources
Cognizant Technology Solutions India (P) Ltd.,
6-8 Floors, New No.165, Old No.110,
Menon Eternity Building,
St. Mary's Road, Alwarpet,
Chennai-600018.

2. The Senior Director,
Corporate Work Place Services (CWS),
Cognizant Technology Solutions India (P) Ltd.,
6-8 Floors, New No.165, Old No.110,
Menon Eternity Building,
St. Mary's Road, Alwarpet,
Chennai-600 018.

... Petitioners

Vs.

1. The Joint Commissioner of Labour (Minimum Wages)
Appellate Authority Under Tamil Nadu
Shops & Establishment Act, 1947,
DMS Compound,
Teynampet, Chennai-600 006.

2. K. Muralidharan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India,



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seeking to issue a Writ of Certiorari to call for the records and to quash the order dated 29.09.2023 passed in TNSE-No.II/03/2019 by the 1st respondent. The Joint Commissioner of Labour (Minimu Wages), Appellate Authority under Tamil Nadu Shops & Establishment Act, 1947.

For Petitioners : M/s.C. Manihar Gupta
For Respondents : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader for R1

ORDER

This Writ Petition is filed seeking for quashment of the order dated 29.09.2023 passed in TNSE-No.II/03/2019 by the 1st respondent, the Joint Commissioner of Labour (Minimum Wages), Appellate Authority under Tamil Nadu Shops & Establishment Act, 1947.

2. The second respondent joined the petitioner company on 23.03.2011. He was working as a Senior Executive Administration in the petitioner company and by a letter dated 27.07.2018 he was directed to report for duty at Gurgan office on 01.08.2018 and take up administrative charges. But the second respondent inspite of the letter dated 27.07.2018 failed to report and join duty at Gurgaon and he sought for extension of time for two months. Even after lapse of three months, he did not report for duty and remained absent and continued to record his attendance at DLF facility



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3. A charge sheet dated 26.11.2018 was issued to the second respondent for dereliction of duties. While so, the second respondent sent a letter dated 28.11.2018 seeking 8 weeks time to appear for personal hearing. But as there was no reply, the second respondent was terminated from service on 05.12.2018. Challenging the order of termination, the second respondent has filed T.N.S.E.II/03/2019 before the Joint Commissioner of Labour, Chennai. The said T.N.S.E.II/03/2019 was allowed on 29.09.2023 holding that procedure was not followed before dismissing the second respondent from service and no proper enquiry was conducted and order of dismissal was passed without giving opportunity to the second respondent. Aggrieved by the order dated 29.09.2023, the petitioner company has come up with this writ petition.

4. It is submitting by the learned counsel for the Writ petitioner that impugned order under challenged has not considered with evidence and material facts relevant in this issue.

5. The second respondent was working as a Software Engineer in



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petitioner Cognizant at Chennai. He was transferred to Gurgan location but he failed to report at Gurgan, thereby he was terminated from service.

6. The second respondent who was aggrieved by the order of termination has took up the matter before the concerned authority under the Tamil Nadu Shops and Establishments Act 1947 (herein after referred to as Shops Act) on the sole ground that he was terminated without conducting proper enquiry. After considering the said submissions, the shops authority has passed impugned orders setting aside the orders of termination and directed the petitioner to reinstate the second respondent with backwages etc.

7. Heard both sides and perused the record.

8. Learned counsel for the petitioner has submitted that the authority has not discussed any thing about the transfer orders and not reporting of the respondent before the Gurgan location which are the core issues to be considered.

9. On going through the impugned orders passed by the authority, it is



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clear that shop authority has not properly discussed the issue to be dealt with in order to consider whether termination is proper or not. The authority is required to consider whether the respondent was transferred to Gurgan and and if so not reporting of the respondent in Gurgan location amounts to misconduct under the rules if any and whether any enquiry was required to be conducted prior to termination of the petitioner etc. All these aspects required to be considered by the authority under Shops Act. Unfortunately, it was not dealt with such issues. Therefore, it is a fit case to remand the case to shops authority for fresh consideration and to give findings on the aspects discussed above by giving sufficient opportunity to, in addition to what was produced earlier.

10. In view of the above, this Writ Petition is allowed. The impugned order is set aside and the matter is remanded back to Appeellate authority to dispose of the same within two months from the date of receipt of copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

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Dr.D. NAGARJUN, J.

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