



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 06.02.2025

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11232 of 2012
and M.P.No.2 of 2012

The Managing Partner,
Leo Fastenders Unit-II,
A-27/A, Industrial Estate,
Thattanchavady, Pudhucherry.

... Petitioner

Vs.

1. The Labour Court,
Puducherry.

2. K.Veeravel

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the award dated 29.09.2011 made in ID. No.12/2010 on the file of the first respondent and quash the same.

For Petitioner	: Mr.T.P.Manoharan
For Respondents	: R2 – Mr.Balan Haridass
	R1 – Court

ORDER

The Writ petition has been filed seeking to quash the order dated 29.09.2011 made in ID. No.12/2010 on the file of the first respondent.



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2. The case of the petitioner Management is that the second respondent joined as Helper in the petitioner management on 13.08.2001 and he was confirmed w.e.f. 18.04.2003. In the year 2008, the workman submitted the medical certificate and he was suffering from neurological disorder and hence, he asked to work in the general shift. Based on the medical certificate issued by the said hospital, the management sent a letter dated 06.02.2009 to the workman offering alternate non-machine work in shift with change in salary for which the workman submitted a letters and various medical certificates stating that he is fit for normal work. Therefore, the petitioner has sent a letter on 26.02.2009 seeking the workman to appear before the medical board, Pondicherry in order to ascertain the genuine fitness condition of the workman. The workman has not undergone any investigation before the Medical Board of Puducherry. In the absence of any such conclusive medical proof, the workman was unable to induct him in service. Further, as the workman was unauthorized absent his duty from 01.03.2009. Hence, the workman was terminated from service, for which, he raised an industrial dispute before the Labour Court. The Labour Court vide its order dated 29.09.2011, allowed the industrial dispute in favour of the



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workman and directed the petitioner to reinstate the workman with continuity of service and other attendant benefits with 50% backwages.

Challenging the said order, the petitioner management has filed the present writ petition.

3. The learned counsel for the petitioner submitted that admittedly, there are two opinion issued by the ESI hospital. The first opinion dated 07.04.2009 is that the second respondent is not fit for work in night shift and he is advised to avoid operating machines, driving vehicles and handling sharp equipment. Subsequently, the very same hospital given another opinion that now the second respondent is fit for work in night duty. In such circumstance, the petitioner Management cannot take risk in the life of the second respondent since he has suffered neurological problem. For his benefits, the second respondent was referred to medical board, Pondicherry. However, he has not appeared. Therefore, the petitioner transferred the second respondent to an alternative work. These facts has not considered by the Labour Court and ordered for reinstatement along with 50% backwages, which is not sustainable. Therefore, the learned counsel prays allow this writ



petition by setting aside the impugned order.

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4. The learned counsel for the second respondent submitted that admittedly, there is no medical disqualification as against the second respondent either by the medical board or by the ESI hospital. In order to wreck vengeance, the petitioner management adopted unfair labour practice. After considering the oral and documentary evidence, the Labour Court has allowed the petition in favour of the second respondent, which is perfectly in order. Further, no perversity was established before the Labour Court to disprove the claim made by the second respondent.

5. Heard the learned counsel for the petitioner and the learned counsel for the second respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner engaged the workman as Helper in the year 2001. For unauthorized absence, the workman was dismissed from service. Hence, the workmen raised an industrial dispute and got an order in his favour.



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7. This Court perused the impugned order. On perusal of the same, it is seen that as directed by the Management, the workman has appeared before the ESI hospital twice on two occasions. Firstly, the workman appeared before the ESI hospital and has produced a certificate stating that he is not fit for working in night shifts and not fit for working in machineries as he was sufferings from neurological problems. For the second time, the workman appeared before the same hospital and produced a medical certificate stating that he is now fit for working in night shifts with machineries. In view of the contrary statement in the medical certificates, the petitioner asked the workman to appear before the Medical Board, Pondicherry. However, he has not appeared. The said certificates have been marked as Exhibits by the workman before the Labour Court. Even after getting fitness certificate, the petitioner again directed the workman to appear before the Medical Board, Puducherry to obtain genuine fitness certificate, which is not sustainable.

8. Further, the workman was terminated from service by the Management for unauthorized absent. In order to prove the same, the



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Management has not produced any documentary evidence. The workman has rendered more than 9 years of service. In the absence of any proof and for unauthorized absent, the Management has ordered punishment for termination, which is too harsh. After considering the entire materials, the Labour Court has rightly ordered for reinstatement with continuity of service and other attendant benefits and also 50% backwages from September 2009 till the date of reinstatement, which cannot be interfered with. Hence, the writ petition is liable to be dismissed.

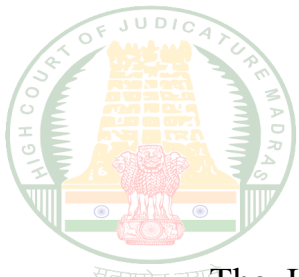
9. For the reasons stated aforesaid, the writ petition is dismissed. No costs. The petitioner is directed to comply with the order passed by the Labour Court. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.02.2025

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To

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The Labour Court,
Puducherry.



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M.DHANDAPANI, J.

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