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W.P. No.3702 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.3702 of 2022
and
W.M.P. No.3855 of 2022

The Management,
Sri Subamangala Metals and Industries (P) Limited,
B-51, SIPCOT Industrial Complex,
Gummidipoondi,
Thiruvallur District - 601 201. .. Petitioner

vs.

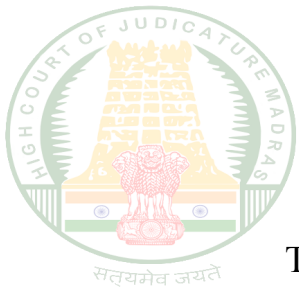
A. Elumalai S/o. Arumugam .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records relating to the Award passed by the Principal Labour Court, Chennai in I.D. No.50 of 2016 dated 14.12.2021 and to quash the same.

For Petitioner : Mr. Praveen Alexandar

For Respondent : Mr. M. Nuzhath Khanam
for Mr. I. Kowser Nissar, Senior
Counsel

ORDER



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This Writ petition has been filed as against the order passed by the Labour Court in I.D. No.50 of 2016 dated 14.12.2021, wherein the respondent herein raised an industrial dispute before the Principal Labour Cour, Chennai and the same was allowed by directing the petitioner herein to reinstate the respondent with continuity of service with full backwages and all other attendant benefits. Aggrieved by the said order, the present petition has been filed by the Management.

2. The short facts necessary to dispose of the Writ petition are as follows:-

The petitioner is a company registered under the Companies Act, 1956 and engaged in the business of manufacturing of Ferrous and Non-Ferrous products. The respondent had joined in the petitioner company as a 'Welder' on 12.09.2012 and after two years, he abandoned the duty from 23.08.2014. Thereafter, the petitioner issued a Show Cause Notice on 31.08.2014 for his absence without permission and the same was received by the respondent, but no reply was submitted by him. In the meantime, the respondent sent a letter dated 19.09.2014 requesting the petitioner Management to reinstate him in the job. Thereafter, the petitioner terminated the service of the respondent 'At



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Will'. Therefore, the respondent approached the Labour Court and the Labour Court set aside the dismissal order and directed the petitioner to reinstate the respondent into service with continuity of service along with backwages and all other attendant benefits. Now, the said order is under challenge.

3. The learned counsel appearing for the petitioner would submit that the respondent had joined the petitioner company and he was designated as a 'Welder' on 12.09.2012. Thereafter, he abandoned his job from 23.08.2014. Therefore, the petitioner issued a Show Cause Notice to the respondent on 31.08.2014 calling upon him to explain as to why disciplinary action should not be taken against him. But no reply was received from the end of the respondent. Thereafter, the respondent approached the petitioner on 19.09.2014 requesting to reinstate him in service. But he did not give explanation for his absence and did not give any reply to the Show Cause Notice. Therefore, the petitioner company terminated the respondent from service 'At Will'. Nevertheless the petitioner followed the due process of law by issuing the Show Cause Notice and thereafter, since the respondent failed to respond and continued to absent himself from work, the petitioner was constrained to terminate the respondent. Thereafter, the respondent raised an



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industrial dispute before the Labour Court. Before the Labour Court, on the side of the Management, they examined one witness and marked 9 documents. On the side of the workman, one witness was examined and 6 documents were marked. The Labour Court, without considering the unauthorized absence and abandonment of work by the respondent, erroneously allowed the industrial dispute on the ground that no enquiry was conducted. Moreover, before the Labour Court, when the petitioner offered employment to the respondent, he was not willing to join duty with the petitioner Management and therefore, the respondent is not entitled to any relief. Therefore, the above said order of the Labour Court is liable to be quashed.

4. The learned counsel appearing for the respondent would submit that the respondent was working as 'Mechanical Assistant' under the petitioner's company from 10.09.2012. While so, he was unable to attend the duty on 23.08.2014 due to his illness and he was undergone medical treatment and he also informed about the same to his superior and requested to grant leave till 01.09.2014. When he approached the petitioner after treatment for returning to duty, they did not permit him to rejoin the duty. In the meantime, the



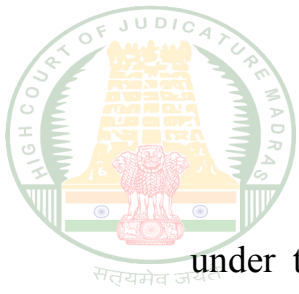
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petitioner sent notice to the respondent and an another person namely Duraisamy was appointed in the place of the respondent. The petitioner without conducting any enquiry terminated the service of the respondent. Therefore, it is against law. Thereby, he raised an industrial dispute before the Labour Court and before the Labour Court, the respondent was examined as a witness and 6 documents were marked. On the side of the petitioner Management, one witness was examined and 9 documents were marked. The Labour Court, after careful perusal of the documents and evidences, came to a conclusion that no charge memo was issued and no any domestic enquiry was conducted and without following the procedures, the termination order was passed and the same is illegal. Therefore, the Labour Court directed the petitioner to reinstate the respondent into service with backwages and all other attendant benefits. Therefore, the present Writ petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. In this case, there is no dispute that the respondent was working



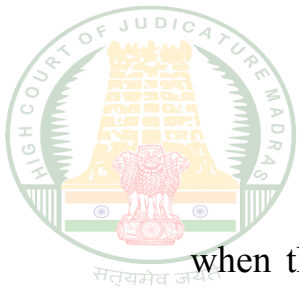
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under the petitioner company and he was absented duty from 23.08.2014.

According to the petitioner, the respondent absented duty and thereby, the petitioner Management issued a Show Cause Notice to the respondent and thereafter, no reply was received from the respondent. Thereafter, the Petitioner Management terminated the respondent from service.

7. It is also an admitted fact that no charge memo was issued and no enquiry was conducted. Therefore there is a clear violation of principles of natural justice, thereby, the termination order is against law. The Labour Court also, in this context, after elaborate discussion, held that, as per the admission made by the petitioner Management's side witness that no charge memo was issued and no domestic enquiry was conducted, the Management, however, terminated the respondent from service. Therefore, the Labour Court has arrived at a just conclusion that there is no any illegality and perversity in the order passed by the Labour Court. However, considering the strained relationship between the parties, it is not appropriate to order for reinstatement. The respondent also worked only for 2 years in the petitioner Management. The petitioner has nowhere stated about the employment of the respondent after his termination.

8. The learned counsel appearing for the petitioner has submitted that



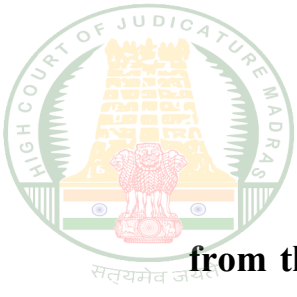
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when the petitioner Management offered employment to the respondent, he did not accept the same. This Court also perused the records. On a perusal of records, it is seen that when the petitioner Management was ready to give employment to the respondent at an alternative place, the respondent refused to accept the said offer. Therefore, it is not appropriate to order for reinstatement and the petitioner is entitled only for compensation.

9. Therefore, considering the above said aspects, facts and circumstances of the case, instead of reinstatement, it is appropriate to award some compensation to the respondent.

10. Considering the past service of the respondent, this Court is of the opinion that the respondent is entitled to the compensation of Rs.2.5 lakhs (Rupees Two Lakhs and Fifty Thousand only) in lieu of reinstatement and other benefits as ordered by the Labour Court.

11. Accordingly, the Writ petition is partly allowed. The petitioner Management is directed to pay a sum of **Rs.2.5 lakhs (Rupees Two Lakhs and Fifty Thousand only)** to the respondent within a period of **2 months**



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from the date of receipt of a copy of this order, failing which the award will carry interest @ 12% per annum from the date of this order till the date of realization. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

09.07.2025

Index : Yes/No.
Speaking order/non-speaking order
mjs

To

The Presiding Officer,
The Principal Labour Court,
Chennai.

P. DHANABAL, J.,

mjs



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