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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2025

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THE HONOURABLE MR JUSTICE M.DHANDAPANI**WP No. 22255 of 2011****and****M.P.No.1 of 2011**

1. The Management Of
Voluntary Health Services, Adyar,
Chennai-600 020.

Petitioner(s)

Vs

1. The Presiding Officer
Principal Labour Court, Chennai.

2.Mr.M.Janarthanam
Room No.9, Giribavan, K.M.N.Puram,
G.P.Road, Chennai-600 002.

Respondent(s)

WP No. 22255 of 2011**PRAYER**

This writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records connected with the award dated 27.01.2011 made in I.D.No.27 of 2002 passed by the First Respondent and quash the same



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For Petitioner(s): Mr. Sai Raaj For M/s.Sai Raaj
Associates

For Respondent(s): R1- Labour Court
R-2 No Appearance

ORDER

The management of voluntary health services has filed this writ petition.

Being aggrieved by the award dated 27.01.2011, passed by the first respondent in I.D.No.27 of 2002.

2. The second respondent herein was engaged in the services of the petitioner management as Assistant Bio-chemist in the Bio Chemistry Department. The duty time of the Hospital was between 10.00 am and 5.00 pm. However, the second respondent was in the habit of attending office only at 11.00 am. Despite several warnings given by the petitioner, the second respondent continued to report for duty only at 11:00 a.m. The second respondent had also made request before the first respondent stating that due to his personal and domestic problems he could not attend office at 10:00 a.m. and requested the management to allow him to report to duty at 11:00 a.m. On another occasion he made similar request stating that he was working part time



in the morning and therefore he may be permitted to report for duty at 11:00

a.m. The said request of the second respondent was denied by the petitioner

management. Thereafter, the second respondent was unauthorisedly absent for

work. The petitioner management conducted domestic enquiry and ultimately

terminated the services of the second respondent vide order dated 12.04.2001.

Challenging the same, the second respondent raised an industrial dispute.

Though the Tribunal accepted with the contentions raised by the management;

however, allowed the dispute raised by the second respondent and directed the

petitioner to reinstate the second respondent without backwages or other

attendant benefits.

3. This Court vide order dated 28.09.2011 granted interim stay of the order passed by the first respondent Labour Court.

4. Heard the learned counsel for the petitioner and perused the materials placed on record.

5. None appeared for the second respondent.

6. The second respondent was holding a responsible post of assistant bio-chemist is expected to report for duty at a prescribed time. Moreover, the



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petitioner is doing voluntary health services to the poor and needy persons. The

second respondent has given two letters to the management seeking exemption

from reporting for duty at 10:00 a.m in one letter he has admitted that he was

doing part time work in the morning and in another letter he stated personal and

domestic problems which stopped him from reporting for duty at 10:00 a.m.

This Court is absolutely not convinced in the way the second respondent has

taken his job. There are plenty of well qualified and educated youth who are

waiting for a similar work. If the second respondent could not adhere to the

rules of the management, he could very well have resigned from the job and

paved the way for another person to abide by them. He cannot have cake and eat

it too.

7. This Court is of the view that the Tribunal had given undue sympathy

to the second respondent by ordering reinstatement. The Labour Court has

observed that on the days when the second respondent has reported late for the

duty as per staff rules deduction was made. The learned Tribunal felt that

dismissal from service would amount to double punishment. This Court is

inclined to accept the said reasoning given by the Tribunal. Mere deduction



would not justify the late coming of the second respondent. The petitioner is an organization providing free health care to the poor and needy persons. Because of the habitual late coming of the second respondent, work of the petitioner is very much affected moreover, the second respondent himself has admitted that he was doing part time in the morning. Such dual employment is not permitted. Therefore, this Court is inclined to interfere with the order of the Labour Court. Accordingly, the award passed by the Labour Court is set aside. However, in order to strike a balance, this Court grants Rs.1,00,000/- (Rupees One Lakh only) as compensation to the second respondent.

8. The petitioner management shall deposit the said amount within a period of four (4) weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

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RAP

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No



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The Presiding Officer
Principal Labour Court, Chennai.



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M.DHANDAPANI J.

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