



W.P.No.26096 of 2011

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26096 of 2011

J.Venkatesan

... Petitioner

Vs.

1. The Presiding Officer,
Additional Labour Court,
Vellore.

2.The Management,
Florind Shoes Private Limited,
M.C.Road, Solur,
Ambur,
Vellore District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the award in I.D.No.62 of 2009 dated 05.04.2011 passed by the first respondent, namely, the Presiding Officer, Additional Labour Court, Vellore, quash the award of dismissing the Industrial Dispute by awarding compensation in lieu of reinstatement and direct the second respondent Management to reinstate the petitioner into service with backwages and other attendant benefits.



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For Petitioner : Mr.K.Venkatasubramani
for Mr.E.Srinivasan

For Respondents : R1-Court
Mr.K.Kousik
for M/s.BFS Legal for R2

ORDER

This Writ Petition has been filed challenging the award dated 05.04.2011 passed in I.D.No.62 of 2009 by the first respondent, namely, the Presiding Officer, Additional Labour Court, Vellore, and for a direction to the second respondent Management to reinstate the petitioner into service with backwages and other attendant benefits.

2. The learned counsel appearing for the petitioner submits that the petitioner was working in the second respondent Management as Operator from the year 2005. When he was on duty, one Shanawas, HRD has told the petitioner to settle his account, however, he refused to settle his account and thereby, the respondent Management terminated him from service vide order dated 04.07.2008 without assigning any reason. Against the illegal termination, the petitioner raised an industrial dispute in



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I.D.No.62 of 2009 before the first respondent, namely, the Additional Labour Court, Vellore. The Labour Court, instead of ordering reinstatement, has awarded a compensation of Rs.25,000/- to be paid by the second respondent Management, which is contrary to the Labour Laws. Accordingly, he prays for allowing this writ petition.

3. The learned counsel appearing for the second respondent submits that the earlier Management, where the petitioner was working, went on liquidation and it landed before the National Company Law Tribunal and on the basis of the order passed by the National Company Law Tribunal, the second respondent-Management took over the possession of the earlier Management and in the proceedings before the National Company Law Tribunal, the entire benefits were settled in favour of the employees and the petitioner is also one among them and therefore, the second respondent-Management need not pay any compensation to the petitioner/workman.



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4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent.

5. The employment of the petitioner in the second respondent Management was disputed by the second respondent. In order to prove his employment, the petitioner marked the Permission Requisition Slip and salary slip as Ex.W5 and Ex.W4. Though the Labour Court held that Ex.W4/salary slip was irrelevant, on analysis of Ex.W5 and Ex.W4, it came to a conclusion that the petitioner was working as daily wage basis from time to time before 30.11.2006. On analyzing Ex.M3, it was found that on 30.11.2006, the petitioner has applied for employment before the second respondent and requested that he may be permitted to learn the training, therefore, it can be presumed that the petitioner was employed under the second respondent as probationer from 30.11.2006 for a period of 36 months, as per Ex.M1, however, he did not report for duty from 08.01.2008 which could be found from Ex.M4 and Ex.M5. From the above, the Labour Court held that the petitioner has worked in the second respondent



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Management for 240 days continuously as probationer and initially, he was working as Operator in the second respondent Management.

6. On careful examination of the evidences adduced by both sides, the Labour Court arrived at a conclusion that the petitioner had worked as Probationer for a period of one year and two months. However, considering the above factual situation, it has been held by the Labour Court that ordering for reinstatement may not be acceptable since the petitioner has filed a petition against the second respondent Management and thereby, the compensation of Rs.25,000/- was awarded by the Labour Court in favour of the petitioner vide impugned award dated 05.04.2011, which does not suffer from any irregularity or illegality. However, the award was passed in the year 2011 and the second respondent Management has not paid the award amount so far, after a lapse of 15 years. Hence, this Court, in order to strike a balance between the parties, is inclined to fix a lumpsum compensation of Rs.75,000/- to the petitioner/workman. The second respondent/Management is directed to pay the above sum of Rs.75,000/- as full quit in favour of the



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petitioner/workman within a period of four weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is disposed of with the above directions. There shall be no order as to costs.

17.02.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1. The Presiding Officer,
Additional Labour Court,
Vellore.
2. The Management,
Florind Shoes Private Limited,
M.C.Road, Solur,
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M.DHANDAPANI, J.

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