



WEB COPY



W.P.No.2545 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.2545 of 2012

and

M.P.No.1 of 2012

The Management of Hotel Chola Sheraton,
No.10, Cathedral Road,
Chennai – 600 086.

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Chennai.

2.K.Ravi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records relating to the Award dated 29.07.2011 passed by the first respondent/Principal Labour Court, Chennai in I.D.No.304 of 1996 and to quash the same.

For Petitioner : Mr.Shivathanu
for M/s.S.Ramasubramaniam

For Respondents : Labour Court [R1]
Not Ready Notice (Tapal Not
Yet Returned Served Or
Unserved) [R2]



W.P.No.2545 of 2012

ORDER

WEB COPY

This Writ Petition has been filed by the petitioner seeking quashment of the Award dated 29.07.2011 passed by the first respondent in I.D.No.304 of 1996.

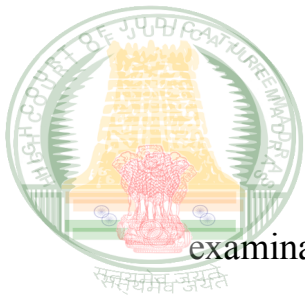
2. The case of the petitioner/management is that, the 2nd respondent/workman was employed under the petitioner hotel as Personal Assistant to the Chief Engineer. Whiles, the 2nd respondent/workman was issued with a memo dated 20.03.1995 for having committed the misconduct of misappropriation, for tampering with the official records and indulging in an act detrimental to the interest of the petitioner hotel. After conducting domestic enquiry, the 2nd respondent was dismissed from service on 02.02.1996. Aggrieved by the order of dismissal, the 2nd respondent raised a dispute u/s 2A(2) of the Industrial Disputes Act, 1947 in I.D.No.304 of 1996 before the first respondent and the Labour Court passed an awarded dated 15.09.1999 reinstating the 2nd respondent with full backwages, continuity of service and all other attendant benefits. Aggrieved by the above award, the petitioner has filed a writ petition before this Court in W.P.No.4532 of 2000 and this Court, by its order dated 12.02.2009, disposed of the same, setting aside the award passed by the Labour Court and restored the I.D. on the file



W.P.No.2545 of 2012

of the labour court. Thereafter, fresh award dated 29.07.2011 was passed, setting aside the order of dismissal dated 02.02.1996 and ordered for reinstatement of the 2nd respondent with continuity of service, backwages and other attendant benefits. Challenging the same, the petitioner hotel has filed the present writ petition before this Court.

3. Learned counsel for the petitioner submitted that, during the period from 2000 to 2009, the petitioner hotel paid the wages to the 2nd respondent from the date of earlier award passed by the Labour Court i.e., 15.09.1999 till the order passed by this court in the above said writ petition in the year 2009. Thereafter, the present impugned award was passed for reinstatement with continuity of service, backwages and other attendant benefits. He further submitted that, the order of dismissal of the 2nd respondent for proven misconduct was totally justified before the Enquiry Officer as well as before the Labour Court. Further, 2nd respondent has made a statement in his claim statement before the 1st respondent that, he had sent a legal notice to the petitioner hotel before raising a dispute before the Conciliation Officer, which is false and no charge against the 2nd respondent with regard to entering new items in writing the bills, cannot be accepted as there is a specific charge of entering and tampering the official records. Mere non-



W.P.No.2545 of 2012

examination of the person, who purchased the material from the hardware store is not a fatal to the domestic enquiry and before the Labour Court. The 2nd respondent himself admitted that there was a tampering in the document with regard to raising of the bills from Rs.10/- to Rs.300/-, which itself shows the misconduct of the 2nd respondent in not performing his official duty at the relevant point of time, however, the Labour Court ordered for reinstatement, which is totally unsustainable. Accordingly, he prays for appropriate orders.

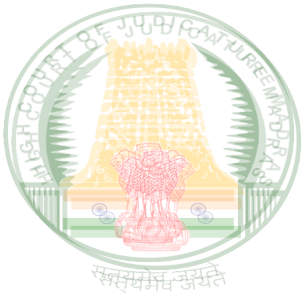
4. Though this writ petition was admitted in the year 2012, however, as on date, notice was not served on the 2nd respondent. Considering the pendency of this writ petition before this Court for more than 12 years, this Court is inclined to dispose of the writ petition based on the materials available on record.

5. Admittedly, the 2nd respondent entered the service with the petitioner hotel as Personal Assistant to the Chief Engineer. In the year 1995, he was issued with a charge memo. The sum and substance of the charge memo is that on 01.10.1994, 07.10.1994 and 20.11.1994 vide bill Nos.2588, 2679 and 4534, the 2nd respondent claimed a sum of Rs.325/-, Rs.325/- and Rs.395/-. However, the above bills were scrutinized by the accounts department of the



W.P.No.2545 of 2012

petitioner and it is found that the actual amount as per copy of the bills obtained from M/s.Aruna Hardwares and M/s.Grand Hardwares was Rs.24/-, Rs.10/- and Rs.10/- respectively. However, over and above, from the carbon copy of the bills, a huge amount was claimed by the person, who purchased the material from the hardwares, which was approved by the 2nd respondent and forwarded the same to the accounts department for approval, which itself is a clear misconduct, thereby, the charge memo was issued. However, in the present case, the petitioner hotel did not examine the person, who purchased the material from the hardwares. It is equally an undisputed fact the petitioner hotel obtained the carbon copy of the bills from the hardwares and on the basis of the same, the charge memo was issued. The petitioner was able to obtain carbon copy of the bills from the hardwares, namely M/s.Aruna Hardware and M/s.Grand Hardwares, however, the said hardwares were not examined either before the Enquiry Officer or before the Labour Court in order to compare the original bill and carbon copy of the bills, and therefore, the failure is on the part of the petitioner hotel, which was rightly appreciated by the Labour Court and ordered for reinstatement, which cannot be said to perverse, illegal or arbitrary. Hence, this Writ Petition is liable to be dismissed.



WEB COPY



W.P.No.2545 of 2012

M.DHANDAPANI, J.

sp

6. Accordingly, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

14.02.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Presiding Officer,
Principal Labour Court,
Chennai.

W.P.No.2545 of 2012