



WP No. 3624 of 2011



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

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CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 3624 of 2011

and

WMP No. 5793 of 2017 & M.P.No.1 of 2011

1. M/s.K.K.Enterprises

No.7 Waterloo St, Kolkotta 700 069

2.The Branch Manager

M/s. K.K. Enterprises, No. 127 Thambu

Chetty St, Chennai 1

Petitioner(s)

Vs

1. The Presiding Officer

III Addl. Labour Court, High Court

Campus, Chennai 104

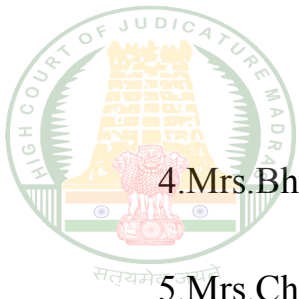
2.Rathna Varman

3.Harish Chandra Varman,

R3-impleaded as per order dated

18/11/2011 in MP.No.2/2011 in

W.P.No.3624/2011



4.Mrs.Bhuvaneswari

5.Mrs.Chitra

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6.Mr.Prakash Varman

R4 To R6 impleaded as per order dated
21/03/2014 in M.P.No.1/2012 in
WP.No.3624/2011

Respondent(s)

PRAYER

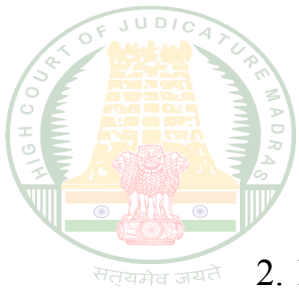
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the concerned records from the 1st respondent, quash the award passed by the 1st respondent, III Additional Labour Court, High Court Campus, Chennai-600 104 dated 07.10.2009 in I.D.No.704 of 2003, award cost

For Petitioner(s): Mr. N.Gyanchand Jain

For Respondent(s): R1- Labour Court
Mr. N. Kamaraj for Respondents
3 To 6

ORDER

The present writ petition has been filed assailing the order of the Labour Court in and by which the 2nd respondent, since deceased, was directed to be reinstated in service along with 50% backwages.



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2. For brevity, the petitioner will be referred to as the Management and the 2nd respondent will be referred to as the workman.

3. It is the case of the workman that she was employed with the Management since 1987 as accounts personnel. While she was so engaged, on 20.4.2002, during working hours, she fainted and she was rushed to the hospital and upon diagnosis, she was advised surgery, which was done on the workman. Thereafter, the workman reported for duty on 1.7.2002. However, as the workman was found to be weak and fragile, she had applied for leave from 5.7.2002. Thereafter, the Management, vide its letter dated 8.7.2002, called upon the workman to submit fitness certificate and join duty and as the workman, submitted a copy of the fitness certificate dated 12.7.2002. As the medical condition of the workman was precarious and she could not perform her work properly, the Management terminated the workman from service after paying her a month's wages. Aggrieved by the act of the Management in terminating her, as efforts for conciliation failed, the workman raised a dispute



which was adjudicated by the 1st respondent in I.D. No.704/2003.

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4. Before the Tribunal, the workman examined herself as W.W.1 and marked Exs.W-1 to W-9. On the side of the Management, one witness was examined as M.W.1 and Exs.M-1 to M-6 were marked. The Tribunal, upon considering the oral and documentary evidence, directed reinstatement of the workman with 50% backwages while denying the claim of the workman for reimbursement of medical expenses. Aggrieved by the order of reinstatement, the present writ petition has been filed.

5. Pending the writ petition, the workman died and respondents 3 to 5 were brought on record as the legal heirs of the workman. Further, on the directions of this Court, deposit of a sum, as ordered by this Court, was also made by the Management.

6. Learned counsel appearing for the Management submitted that the workman was employed only since April, 2002 and not since 1987 as claimed



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by the workman. It is the further submission of the learned counsel that the workman, during the course of attending work, fainted and after treatment and surgical procedure, had joined duty on 1.7.2002. However, as her medical condition was bad, she had once again taken leave and she had not produced any medical records in support of her medical ailment and as health condition was not good, the Management decided to terminate the services of the workman upon paying one month's wages. Since the workman was employed only since April, 2002 and no materials were filed to show her employment since 1987, the Management had terminated the services of the workman upon paying one month's wages. However, without properly appreciating the said fact, the Tribunal had ordered reinstatement along with 50% backwages, which is grossly misconceived and illegal and deserves to be set aside.

7. Per contra, learned counsel appearing for the respondents submitted that the workman, viz., the 2nd respondent, since deceased was employed with the Management since 1987 and during the course of her employment she suffered the medical ailment for which she had taken treatment and had also



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submitted the necessary fitness certificate. However, to deny the benefits to the workman, she was terminated from service without referring her to medical board to assess her medical condition, which is nothing but flagrant violation of principles of natural justice. Further, the workman, though had been promised reimbursement of her medical expenses as she suffered the medical condition during the course of employment, she has been denied the same and the Tribunal had also not granted the said benefit, which ought to be granted to the respondents. Therefore, the reinstatement of the workman along with 50% backwages as ordered by the Tribunal cannot be found fault with it, as the workman cannot be terminated without following the procedure contemplated by law. Accordingly, he prays for dismissal of the petition.

8. The facts with regard to the workman suffering medical ailment during the course of her employment and the treatment taken by her and her joining office and later applying for leave have not been dispute. The whole dispute arises in the context of the Management claiming that no fitness certificate and medical records have been submitted by the workman at the time of joining to



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establish her medical condition. It is the further case of the Management that the workman was weak and fragile when she joined duty and since her medical condition was bad, continuing her in further employment, according to the Management, was not advisable, which resulted in the termination of the workman.

9. The employment of the workman from the year 1987 with the Management has not been established by the workman and equally there is no material placed by the Management to show that the employment of the workman is only since April, 2002. However, it is for the workman to first establish her employment since 1987. The fact remains that her employment since April, 2002 is admitted.

10. In this background, when it is the clear admission of the Management that the workman was in employment from April, 2002, principles of natural justice warrants that the medical condition of the workman ought to have been assessed by the Medical Board/a team of doctors identified by the Management



before she is terminated from service. However, no such procedure has been followed by the Management, but the workman had been terminated from service, which is nothing but flagrant violation of principles of natural justice. Therefore, the finding of the Tribunal that the termination was not in accordance with law cannot be held to be perverse or arbitrary.

11. However, the fact remains that the employment of the workman since 1987 has not been established. It is the stand of the Management that the workman was employed only since April, 2002 and that she suffered the medical ailment on 20.4.1987, within a very short span of her employment. In the absence of any records to prove the employment of the workman since 1987 and the stand of the Management that she was in employment since April, 2002, the order of reinstatement passed by the Tribunal cannot be said to be justified.

12. The Tribunal ought to have invoked Section 11-A of the Industrial Disputes Act and should have awarded compensation in lieu of reinstatement as there are no tangible materials placed by either side to establish the continuous



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employment of the workman. In such view of the matter, to render substantial justice and balance the scales of justice in favour of either party, this Court feels that compensation for the act would be the fair relief, which would meet the ends of justice, as the workman has since deceased and no useful purpose would be served in ordering reinstatement. Further, the workman having not worked, the principle of 'No work, No pay' will also stand attracted.

13. In such view of the matter, the order of reinstatement with 50% backwages passed by the Tribunal is modified and this writ petition is disposed of directing the Management to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) in full quit to the legal heirs of the 2nd respondent/workman in addition to the amount already deposited by the Management, which will also be payable to the workman along with the accrued interest.

14. Accordingly, this writ petition is disposed of directing the Management to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of I.D. No.704/2003 on the file of III Additional Labour Court, High



Court Campus, Chennai-600 104 within a period of eight weeks from the date

of receipt of a copy of this order and on such deposit being made, the Tribunal

is directed to disburse the said sum along with the amount already in deposit in

the said I.D. No.704/2003 along with accrued interest to the legal heirs of the

workman, upon proper acknowledgement within a period of four weeks

thereafter. There shall be no order as to costs. Consequently, connected

miscellaneous petition, if any, shall stand closed.

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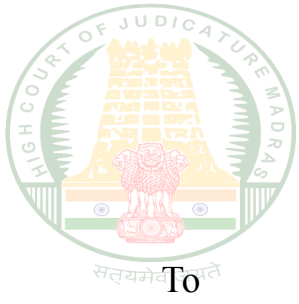
RAP

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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M.DHANDAPANI J.

RAP

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