



W.P.No.10713 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 17.04.2025

CORAM :

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

W.P.No.10713 of 2019

and

WMP.No.11197 of 2019

M/s. Soundarya Decorators Private Limited,
Plot No.26, Porur Village,
Kolathur Post, Keezhkottaiyur,
Chennai – 600 127.

...Petitioner

Vs.

R.Sathish

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the Award dated 20.07.2018 passed in I.D.No.189 of 2016 by the Presiding Officer, I Additional Labour Court, Chennai, in so far as reinstatement of service alone and quash the same.

For Petitioner : Mr.D.Ravichander

For Respondent : No Appearance



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ORDER

WEB COPY This Writ petition has been filed seeking quashment of the Award of the I Additional Labour Court, Chennai passed in I.D.No.189 of 2016 dated 20.07.2018, insofar as reinstating the respondent / workman into employment under the petitioner company.

2. The short facts necessary for disposal of this Writ petition are as follows:

2.1. The respondent raised a dispute in I.D.No.189 of 2016 before the I Additional Labour Court, Chennai stating that he joined the services of the petitioner company as Loadman on 15.05.2007 and thereafter, he was doing Carpenter machine operator work and his last drawn salary was Rs.10,140/-. There are more than 300 workers in the petitioner Company and due to huge work orders, the petitioner Management forced the respondent to work day and night. Due to the same, the respondent suffered some health problems and thereby, he applied for leave and had taken treatment from 31.01.2014. It is the case of the respondent that though he informed about his leave through telephone to the HR Mr.Subramani and got permission, later, when



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the respondent went to the petitioner Company on 11.02.2014 with ESI Leave Certificate to join duty, the said Mr.Subramani, HR, refused to receive his leave letter and refused to give employment. It is stated by the respondent that he had taken leave earlier from August, 2011 to August, 2012, as his health was affected due to dust allergy. It is further stated by the respondent that though the petitioner sent a notice on 25.03.2014, the respondent did not receive the same, as he had shifted his residence. Thereafter, upon receipt of the same, the respondent sent his reply on 09.10.2014 denying the charges and gave a detailed reply. But the Management has not come forward to give employment to the respondent. Hence, the respondent initiated conciliation proceedings before the Assistant Commissioner of Labour, Irungattukottai and as the same ended in vain, against which the respondent/workman raised the present dispute.

2.2. The Labour Court, on appreciation of oral and documentary evidence on either side, inferred that principles of natural justice has not been followed in this case and held that when there is no enquiry and when there is no detailed termination order, the refusal to give employment to the



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respondent cannot be justified without substantiating any charge accusing him, but at the same time, considering the conduct of the respondent, held that the respondent cannot be given backwages. Accordingly, the Labour Court, vide impugned award dated 20.07.2018, ordered reinstatement of the respondent without any back wages and with all other benefits. Aggrieved by the same, the petitioner Management has filed the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner never passed any termination order as against the respondent and the respondent left the Company on his own accord and did not turn up for the job for a continuous period of 8 months from 31.01.2014 to 22.09.2014, without any intimation to the petitioner inspite of several notices sent by the petitioner calling upon the respondent to join duty. Further, the petitioner management has issued notice as early as on 25.03.2014 itself, however, the respondent has slept over for a period of 6 months and sent his reply only on 09.10.2014 stating a false story that he was under medical treatment. Thereafter, the respondent has raised the Industrial Dispute after a period of 8 months with flimsy grounds. Learned counsel further pointed out that the



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medical certificate, which was marked as Ex.W3, reveals that the respondent undertook treatment only for viral fever for one day and not on account of dust allergy for several months. By denying the contention of the respondent that he shifted the residence, the learned counsel submitted that, even assuming so, the respondent could have very well approached the petitioner in person for rejoining the duty. Pointing out to the notices sent by the petitioner, which are marked as Exs.M1, M4 and M5, the learned counsel submitted that the respondent has been given ample opportunities by the petitioner to rejoin duty and the principles of natural justice has been scrupulously followed in this case. Learned counsel for the petitioner reiterated that the respondent is an habitual absentee and the respondent does not have any interest in continuing the duty and if so, he would have approached the petitioner Company immediately after he left his service. As regards dust allergy, it is the case of the petitioner that the petitioner have provided proper safety measures inside the factory premises and therefore, all other workmen have been still working without making any such complaint or allegation as against the petitioner Company. However, without considering any of the above said facts, the Labour Court had



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ordered for reinstatement of the respondent, which is wholly unsustainable.

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4. Though notice was served and the name of the respondent was printed in the cause list, none appeared on his behalf. Considering the period of pendency of this Writ petition, this Court is inclined to dispose of the same based on the available materials.

5. On a perusal of the materials available on record, particularly the impugned award, it is evident that the petitioner refused to give employment to the respondent, without issuing any formal termination order. Even though it is the contention of the petitioner that the respondent is a habitual absentee, for mere unauthorised absence, imposing a punishment of dismissal from service is highly disproportionate. Therefore, the Labour court had rightly ordered for reinstatement without any backwages but with all other benefits, in which this Court does not find any fault with and the same is confirmed.



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WEB COPY 6. The petitioner is directed to reinstate the respondent / workman back into service within a period of two weeks from the date of receipt of a copy of this order, without any backwages but with other benefits as ordered by the labour court.

7. This Writ Petition stands dismissed with the above directions. No costs. Consequently, the connected miscellaneous petition stands closed.

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Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

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Chennai.

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M.DHANDAPANI, J.

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