



WEB COPY



W.P.No.6919 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

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and

W.M.P.Nos.7477 & 29577 of 2021

The Management,
Addison & Company Limited,
Regd. Office: No.4, 18 & 19, Smith Road,
Anna Salai, Chennai – 600 002.

... Petitioner

Vs.

K.Balaganesan

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the III Additional Labour Court, Chennai in I.D.No.53 of 2016 and quash its award dated 31.12.2020.

For Petitioner : Mr.M.Vijayan
for M/s.King and Partridge

For Respondent : Mr.S.Ravi

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorari, to call for the records of the III



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Additional Labour Court, Chennai in I.D.No.53 of 2016 and quash its award dated 31.12.2020.

2. The case of the petitioner/management is that the respondent was initially engaged as an apprentice in Welder Trade during the period between 18.11.1989 and 17.11.1990. After his apprenticeship, he was in the habit of absenting himself without prior intimation/permission or sanction of leave and was on loss of pay frequently on account of unauthorized absence, which is a misconduct as per clause 23(f) and (g) of the Certified Standing Orders of the Company. During the year 2012 – 2013, the respondent was on loss of pay for 51 days, for which, a show cause notice dated 03.08.2013 was issued to him. After conducting disciplinary proceedings, the respondent was dismissed from service vide order dated 11.04.2014. Aggrieved by the same, the respondent raised an industrial dispute in I.D.No.53 of 2016 before the III Additional Labour Court, Chennai and the labour court has allowed the dispute and directed the petitioner to reinstate the respondent without back wages, continuity of services and other attendant benefits. Challenging the same, the present writ petition has been filed.



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WEB COPY 3. Learned counsel for the petitioner submitted that though the respondent entered the service in the year 1989, he frequently absented himself from service for each and every year, thereby, disciplinary proceedings was initiated and the same ended in dismissal. Without considering the past misconduct, the labour court ordered for reinstatement, which is wholly unsustainable. When a person is not regular in attending the duty, he cannot be allowed to continue the service under the petitioner, which will create a bad precedent among the other employees. However, on instructions, he submitted that since the respondent employed under the petitioner from 1989 to 2012, this Court may fix a reasonable compensation by considering the past services rendered by him. Accordingly, he prays for appropriate orders.

4. Learned counsel appearing for the respondent submitted that since the respondent reached the age of 52 years, he is having remaining service to render and he is ready to join the petitioner management as fresh entrant. He further submitted that for the misconduct of unauthorised absence, the petitioner has dismissed the respondent, which is highly disproportionate, thereby, the labour court ordered for



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reinstatement, which cannot be interfered with. Accordingly, he prays for

dismissal of this writ petition.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. Admittedly, the respondent unauthorizedly absented himself from service, for which, the petitioner management has initiated disciplinary proceedings against him and the same ended in dismissal, against which, the respondent had raised an industrial dispute before the labour court and the labour court has ordered for reinstatement in favour of the respondent, assailing which, the present writ petition has been filed.

7. It is seen from the records that the respondent was a habitual absentee without getting prior permission from the petitioner. For the misconduct of unauthorised absence, imposing the punishment of dismissal from service is highly disproportionate. Therefore, the labour court has set aside the punishment of dismissal and ordered for reinstatement, which is cannot be said to be perverse.



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8. Though the respondent is ready to join the petitioner management as a new entrant, it is the contention of the petitioner management that the respondent was not regular in attending the duty and hence, he cannot be allowed to continue to work under the petitioner, since it will create a bad precedent among the other employees of the petitioner. Under this circumstances, confirming the order of the labour court ordering reinstatement of the respondent will not be feasible. Therefore, in order to strike balance in between the parties, this Court is inclined to fix a reasonable compensation in favour of the respondent.

9. Accordingly, this Writ Petition is disposed of, directing the petitioner management to pay a sum of Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) as compensation in full quit to the respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected writ miscellaneous petitions are closed.

22.04.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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To

The Presiding Officer,
III Additional Labour Court,
Chennai.

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