



W.P.No.40134 of 2015

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.40134 of 2015

and

M.P.No.1 of 2015

R.Venkatachalam

... Petitioner

Vs.

1.The Presiding Officer,
II Additional Labour Court,
Chennai.

2.The Management of Cosmopolitan Club,
Rep. by its The Manager,
No.63, Anna Salai,
Chennai – 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the I.D.No.726 of 2001 on the file of the 1st respondent dated 18.4.2015 and to quash the part of the award and consequently, direct the 2nd respondent to reinstate the petitioner with continuity of service, full back wages with all other attendant benefits.



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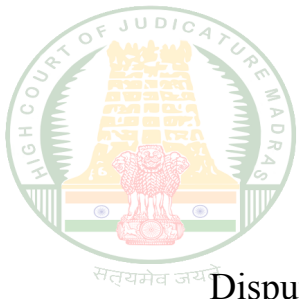
For Petitioner : Mr.K.V.Dhanapalan
for M/s.T.Fenn Walter Association

For Respondents : Labour Court [R1]
Mrs.D.Veda [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorarified Mandamus, to call for the records pertaining to the I.D.No.726 of 2001 on the file of the 1st respondent dated 18.4.2015 and to quash the part of the award and consequently, direct the 2nd respondent to reinstate the petitioner with continuity of service, full back wages with all other attendant benefits.

2. The case of the petitioner is that, he was working as a clerk in the 2nd respondent club from 1981 onwards. The 2nd respondent club has two suites and some other rooms for the stay of the guests of the members. The petitioner's duties includes checking in and checking out guests, maintaining reservation register, maintaining attendance register for the workmen and collecting of room rents etc. His work was clerical in nature and therefore, he is a workman for the purpose of Industrial



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Dispute Act. Two rooms were allotted to the guests of two members for their stay from 23.7.1998 to 25.7.1998. But even after the reservation period the guests failed to vacate and continued to occupy the rooms. In the meanwhile, the reception officer had booked these two rooms for the use of the guests of the secretary of the club namely Gajapathi. The Secretary of the club booked the rooms without verifying whether they were vacant. However, a complaint was lodged against the petitioner alleging that he had failed to provide one room for the guests of the Secretary though it was not his fault. The management arranged for a domestic enquiry to be conducted into the charges. The enquiry was not conducted in a fair and proper manner. The enquiry officer found the petitioner guilty and based on the report of the enquiry officer, the 2nd respondent terminated the services of the petitioner. Aggrieved by the same, he raised an industrial dispute in I.D.No.726 of 2001 on the file of the 1st respondent. The Labour Court passed an award dated 18.04.2015 directing the 2nd respondent to pay a sum of Rs.1,50,000/- as compensation to the petitioner and also directed the 2nd respondent to pay the petitioner any terminal benefits in accordance with the terms of service remaining unpaid to the petitioner. Challenging the same, the



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petitioner has filed the present writ petition before this Court seeking the above relief.

3. Learned counsel for the petitioner submitted that even the management did not take the view and without giving any opportunity to the petitioner relates to questioning of direction of duty, the labour court concludes that dereliction of duty is highly illegal, arbitrary and against the principles of natural justice. He further submitted that the witness examined on behalf of the 2nd respondent has categorically admitted that the petitioner did not violated any rules, which was not at all taken into account by the 1st respondent before coming to the conclusion. Without considering the service rendered by the petitioner, the 1st respondent has ordered minimum compensation of Rs.1,50,000/- in faovur of the petitioner, which is wholly unsustainable. Accordingly, he prays for allowing this writ petition.

4. Per contra, learned counsel appearing for the 2nd respondent submitted that since the petitioner has reached the age of superannuation, the labour court has awarded a sum of Rs.1,50,000/- as compensation in



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favour of the petitioner, which does not require any interference. He further submitted that immediately after the award, the 2nd respondent drawn a demand draft in favour of the petitioner, however, the petitioner refused to receive the same, thereby the compensation was not paid to the petitioner. Accordingly, he prays for appropriate orders.

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

6. A perusal of the award would show that the 2nd respondent club has proved the alleged misconduct committed by the petitioner, which amounts to dereliction of duty. For the act of dereliction of duty, the 2nd respondent has dismissed the petitioner from service, which is highly disproportionate, thereby, the labour court has set aside the punishment of dismissal imposed by the 2nd respondent club on the petitioner, which is *per se* sustainable.



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7. Considering the fact that the petitioner has reached the age of superannuation in the year 2012 itself, the labour has ordered a sum of Rs.1,50,000/- as compensation in favour of the petitioner, which cannot be said to be illegal, perverse or arbitrary. The labour court has passed the award in the year 2015, now, we are in the year 2025 and a decade has passed. Hence, confirming the said compensation ordered by the labour now will not be correct. Therefore, this Court is inclined to fix a reasonable compensation in favour of the petitioner.

8. Accordingly, the 2nd respondent club is directed to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) as lumpsum compensation to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is also directed to pay the terminal benefits, if any, in accordance with the terms of service remaining unpaid to the petitioner.

9. With the above directions, this Writ Petition is disposed of. No



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costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

The Presiding Officer,
II Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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