



W.P.No.23036 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2025

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.23036 of 2022
and
W.M.P.No.22052 of 2022

N.Srinivasan
S/o.Nagappan

... Petitioner

vs.

The Management
S.K.R.Engineering College
Agaramel Village, Nazarathpet
Chennai-600 123
Poonamallee Taluk
Thiruvallur District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the 2nd Additional Labour Court, Chennai in connection with the award pronounced in I.D.No.29 of 2015 dated 21.02.2020 and quash the same and



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direct the respondent Management to reinstate the petitioner in service with full backwages, continuity of service with all other attendant benefits.

For Petitioner : Mr.S.Ravi
For Respondent : Mr.D.Ramesh Kumar

ORDER

The captioned Writ Petition (hereinafter referred to as “WP” for the sake of brevity, convenience, and clarity) has been filed seeking issuance of a Writ of Certiorari, assailing the award dated 21.02.2020 passed by the II Additional Labour Court, Chennai, in I.D. No. 29 of 2015. By the said order, the Labour Court dismissed the industrial dispute raised by the petitioner under Section 2A(2) of the Industrial Disputes Act, 1947 [hereinafter referred to as “the Act, 1947” for the sake of brevity, convenience, and clarity].

2. The petitioner claims that he was employed as a bus driver under the respondent Management from 11.07.2008, and that his employment was unlawfully denied. Consequently, he filed a petition before the Assistant



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Commissioner of Labour on 08.04.2013 under Section 2A(1) of the Act, 1947. Before the Conciliation Officer, the respondent Management filed a counter affidavit stating that there were several complaints against the petitioner regarding misconduct while discharging his duties along with other bus drivers. It was also stated that the Management was willing to reinstate the petitioner into service. However, after conducting an enquiry, the Conciliation Officer submitted a report dated 05.01.2015 stating that no settlement had been reached between the parties. The petitioner thereafter raised an industrial dispute before the competent Labour Court.

3. Before the Labour Court, the petitioner/workman examined himself as W.W.1 and produced documents marked as Exs. W1 to W10. The respondent/Management examined two witnesses, M.W.1 and M.W.2, and produced documents marked as Exs. M1 to M12. Upon appreciation of the oral and documentary evidence, the Labour Court concluded that since the petitioner had not accepted the offer of reinstatement made by the



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respondent Management, his claim petition deserved to be dismissed.

Aggrieved by the same, the present WP has been filed.

4. Mr. S. Ravi, learned counsel for the writ petitioner, submitted that the petitioner/workman had worked for more than 240 days preceding his unlawful termination and that such termination, effected without following the mandatory procedure contemplated under Section 25F of the Act, 1947, is unsustainable in law. He further submitted that though the respondent Management had offered reinstatement, the petitioner did not accept the offer as it was made without continuity of service and backwages. Accordingly, the Conciliation Officer submitted a failure report dated 05.01.2015. Learned counsel contended that even assuming the petitioner had abandoned his work, the respondent Management failed to conduct any enquiry to establish voluntary abandonment. He placed reliance on the judgment of the Bombay High Court in ***Gaurishankar Vishwakarma vs. Eagle Spring Industries Pvt. Ltd.***, reported in 1988 (1) LLN 259.



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5. In reply, Mr. D. Rameshkumar, learned counsel for the respondent Management, submitted that there were several complaints from students and professors regarding the petitioner's rash and negligent driving, as well as his use of abusive language. He contended that the petitioner had voluntarily abandoned his service. Despite the offer of reinstatement made before the Conciliation Officer, the petitioner refused to rejoin duty. The Labour Court, having considered all these aspects in a proper perspective, rightly dismissed the claim petition. Hence, there being no illegality or infirmity in the impugned award, no interference is warranted.

6. The arguments advanced by the learned counsel on either side and the materials placed on record have been duly considered.

7. It is undisputed that the petitioner/workman was employed as a bus driver under the respondent Management from 11.07.2008. The petitioner claims that his employment was denied on 14.03.2013. Through the Handloom and General Labour Union, the petitioner issued a notice dated



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15.03.2013, received by the respondent Management on 19.03.2013, calling upon the Management to reinstate him into service. On 16.03.2013, the respondent Management issued a letter (Ex.M3) to the petitioner calling upon him to explain his absence from duty on 15.03.2013, failing which disciplinary action would be initiated. A perusal of Ex.M3 reveals that it merely sought an explanation from the petitioner and did not direct him to resume duty.

8. The petitioner thereafter filed a petition before the Conciliation Officer on 08.04.2013 under Section 2A(1) of the Act, 1947. The respondent Management filed a counter affidavit contending that the petitioner was not entitled to reinstatement in view of the several allegations of misconduct made against him by students and professors. However, an offer to rejoin duty was made to the petitioner, which he refused since the offer excluded back wages and continuity of service. Consequently, the



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Conciliation Officer submitted a failure report dated 05.01.2015, whereafter the petitioner raised an industrial dispute before the Labour Court.

9. The Labour Court dismissed the claim petition on the ground that the petitioner, in his cross-examination, had admitted to loss of hearing, rendering him unfit to perform his duties as a driver in accordance with traffic regulations. The Labour Court also observed that examining the persons who had lodged complaints against the petitioner was unnecessary since the proceedings were not criminal in nature. The respondent Management took inconsistent stands — asserting on one hand that the petitioner was guilty of misconduct, and on the other, that he had refused reinstatement. Even assuming the petitioner had abandoned service, it was incumbent upon the Management to issue a charge memo, conduct an enquiry, and impose punishment for unauthorised absence. No such procedure was followed.



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10. A similar issue was considered by the Bombay High Court in ***Gaurishankar (supra)***, wherein it was held that when the employer alleges abandonment, the burden lies on the employer to establish such abandonment. In the present case, the petitioner having established the employer-employee relationship and having proved that he had worked continuously for more than 240 days preceding his termination, the denial of employment by the respondent Management is in contravention of Section 25F of the Act, 1947. The Labour Court failed to consider these material aspects and dismissed the claim petition, which is legally unsustainable. The issuance of notice by the petitioner through an unrecognised Union calling upon the respondent to reinstate him is immaterial, and on receipt of such notice, the respondent ought to have either denied the allegations or agreed to reinstate the petitioner. The respondent's failure to do so clearly indicates that the petitioner was terminated without adherence to due process of law.



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11. In view of the foregoing reasons, this Court holds that the termination of the petitioner is contrary to Section 25F of the Act, 1947, and therefore, the impugned award of the Labour Court is unsustainable. This Court is empowered to award monetary compensation in lieu of reinstatement in cases where an employee has been wrongfully terminated, provided there exist justifiable and reasonable grounds for doing so. Although reinstatement with continuity of service and back wages is ordinarily regarded as the primary and natural relief in cases of illegal termination, the Court may, in its discretion, direct payment of compensation instead, where reinstatement is deemed impractical or inexpedient in the facts and circumstances of the case. Therefore, it would be just and appropriate to award reasonable compensation instead.

12. Accordingly, the captioned Writ Petition is allowed. The impugned award dated 21.02.2020 passed by the II Additional Labour Court, Chennai, in I.D. No. 29 of 2015 is hereby quashed. The respondent



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Management is directed to pay compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the petitioner/workman within a period of three months from the date of uploading of this order on the official website of this Court. Consequently, the connected miscellaneous petition stands closed. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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

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HEMANT CHANDANGOUDAR, J.,

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