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W.P. No.18242 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.18242 of 2022
and W.M.P. No.17590 of 2022

M/s. Vaigai Canteen Pvt. Ltd.,
represented by its Managing Director,
No.68, 5th Floor,
C.P. Ramasamy Road, Alwarpet,
Chennai-600 018.

.. Petitioner

vs.

S.M. Veeramani Vincent Paul
S/o. Munisamy

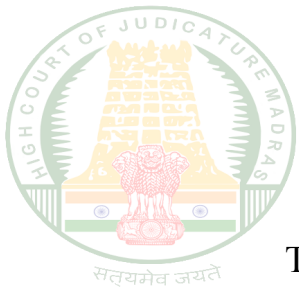
.. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records relating to the Award passed by the III Additional Labour Court, Chennai dated 30.05.2022 in O.P. No.119 of 2020 and to quash the same.

For Petitioner : Mr. K. Rangesh

For Respondent : Mr.R. Thirumoorthy

ORDER



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This Writ petition has been filed by the petitioner to quash the order passed by the III Additional Labour Court, Chennai in O.P. No.119 of 2020 dated 30.05.2022, wherein the respondent raised an industrial dispute challenging the termination order passed by the Management and the same was allowed by directing the Management to pay compensation to the respondent.

2. The short facts necessary to dispose the Writ petition are as follows:-

The respondent worked under the petitioner Management and he joined duty as 'Accounts Manager' on 01.12.2012 and had worked till 30.11.2019. According to the respondent, his service was terminated by the petitioner without prior intimation and thereby, he raised an industrial dispute before the Labour Court and the same was allowed. The Labour Court passed an Award of monetary compensation of Rs.3,73,200/- in lieu of reinstatement along with backwages and other benefits. The time for payment is 3 months, failing which, the Award will carry 9% interest per annum. Aggrieved by the said Award, the present Writ petition has been filed by the Management.

3. The learned counsel appearing for the petitioner would submit that



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the respondent has joined duty as 'Accounts Manager' in the petitioner's office on 01.12.2012 and had worked till 30.11.2019. Thereafter, the respondent discontinued his employment and the respondent himself conveyed the petitioner that he was looking for a better prospects and he informed about his relinquishment of employment to the petitioner and the petitioner also accepted the same and only insisted to tender his resignation in writing, for which, the respondent did not respond. The respondent did not report duty thereafter. Therefore, the above said oral resignation of the respondent was accepted and thereafter, the respondent sent emails to settle the full and final settlement including the gratuity, but did not appear in person for collecting his full and final settlement. Thereafter, the petitioner received a letter from the Assistant Commissioner of Labour, Chennai intimating that the respondent has raised an industrial dispute under Section 2A(1) of the Industrial Disputes Act and called upon the petitioner to attend conciliation proceedings through Proceedings in Na.Ka. No.141/2020. The petitioner paid the gratuity amount of Rs.52,500/- to the respondent and he also received the amount as full and final settlement without any protest. Thereafter, the respondent raised an industrial dispute before the III Additional Labour Court, Chennai and the Labour Court erroneously allowed the dispute and



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directed the petitioner to pay a sum of Rs.3,73,200/- on the ground that the respondent is 57 years and there is one more of year of service to attain his superannuation and taking the said one year of service into consideration, calculated his monthly salary as Rs.31,100/- and awarded monetary compensation of Rs.3,73,200/- without any basis. The respondent himself has admitted that the salary was paid through account for a sum of Rs.23,100/- and for the remaining amount, there are no records submitted by the respondent. In fact, the respondent was working under the Managerial and Supervisory capacity. Therefore, he will not come under the purview of 'workman' under Section 2(s) of the Industrial Disputes Act. However, the Labour Court without any basis, passed the Award. Therefore, the Award passed by the Labour Court is liable to set aside.

3. The learned counsel appearing for the respondent would submit that the respondent was working under the petitioner Management as 'Accounts Manager' from 01.12.2012. While so, on 30.11.2019, all of a sudden, he was terminated from service without any prior intimation and he was drawing a salary of Rs.31,100/- per month at the time of termination. The petitioner used to credit salary of Rs.23,100/- through bank, Rs.5000/- by way of cash



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from MD and Rs.3,000/- from Finance Manager. The respondent was not holding with decision making powers. He was not doing managerial work, thereby he will come under the definition of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. The respondent was not provided with the benefits such as Bonus, Medical Insurance, LTA, Leave wages. When the same was requested, the MD R. Muthukumar informed the respondent that the benefits will be given as full and final settlement at the time of retirement. In the meantime, he was terminated from service. Therefore, he raised an industrial dispute. Only after approaching the Labour Commissioner, the petitioner transferred the gratuity amount of Rs.52,500/- to the respondent on 19.09.2020. Thereafter, failure report was sent by the Assistant Commissioner of Labour. Therefore, the respondent raised an industrial dispute before the Labour Court and before the Labour Court, the respondent was examined as WW1 and Ex.W.1 to Ex.W.6 were marked. On the side of Management, no oral or documentary evidences were adduced. The Labour Court, after considering the evidences adduced on the side of the respondent, correctly allowed the petition and the oral termination was set aside. Since the respondent is nearing the age of superannuation, instead of reinstatement, the Labour Court awarded monetary compensation, after taking



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into consideration the salary of the respondent for one year. The respondent categorically pleaded and evidenced before the Labour Court about his salary and the same was not denied by the petitioner Management either by counter or by way of any rebuttal evidence. Therefore, the Labour Court has taken into consideration the salary as pleaded by the respondent. Therefore, the Award passed by the Labour Court is in order and the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the respondent was working under the petitioner Management. It is also admitted that the respondent had not resigned his job and no any termination order was passed in writing. It is also an admitted fact that the respondent did not work after 30.11.2019.

6. As far as the 'maintainability' is concerned, the ground raised by the petitioner is that the respondent will not come under the definition of 'workman', since he was working as 'Accounts Manager' under the managerial



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capacity. The Managerial capacity vested with managerial powers is concerned, it is the duty of the petitioner to prove that what was the nature of duty, did by the respondent and whether he was holding with any decision making powers vested with Managerial and supervisory capacities. In order to prove the same, there is no any evidence adduced on the side of the petitioner Management and mere averments of the petitioner without proof cannot be considered by this Court. In order to ascertain the work nature of the respondent and in order to find out the factual matters, both oral and documentary evidences have to be taken into consideration. Whereas the petitioner Management failed to prove that the respondent was working under the Managerial capacity and he will not come under the purview of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. The respondent pleaded that he was employed as 'Accounts Manager', he was doing collection of rent and he was assigned to do all works including MD's personal accounts maintenance and his own buildings rent collections of accounts. Therefore, as per the evidence of respondent workman, he was not at all doing managerial and supervisory works. Therefore, the arguments of the petitioner have no merits.

7. According to the petitioner Management, the respondent himself



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absented for duty. As per the evidence of WW1, the respondent was orally terminated. There is no contra evidence adduced on the side of Management to prove that the respondent left the service and he resigned his job. Therefore, the petitioner Management failed to prove that the respondent has resigned his job. Whereas the respondent proved that he was orally terminated by the Management. To rebut the evidence of the respondent, the petitioner Management failed to adduce any contra evidence. In the absence of any contra evidence on the side of the petitioner Management, the evidence of the respondent can be accepted. Therefore, the Labour Court came to a fair conclusion that oral termination of the respondent is not sustainable and the same was set aside.

8. As far as awarding of compensation is concerned, it is an admitted fact that the respondent was aged about 55 years at the time of oral termination and he was aged about 57 years at the time of passing orders by the Labour Court and he was about to retire on superannuation. Therefore, taking into consideration all the above aspects, the Labour Court, instead of reinstating the respondent, awarded a monetary compensation of Rs.3,73,200/-. In order to award compensation, the Labour Court had taken



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into account the remaining period of service. Thereby, awarded one year salary as compensation to the respondent. The learned counsel appearing for the petitioner would submit that the petitioner denied the quantum of salary. However, the Labour Court, without considering the same, considered the salary as Rs.31,100/-. According to the respondent, he was drawing salary of Rs.23,100/- through bank, Rs.5,000/- by way of cash from MD and Rs.3,000/- from the Finance Manager. The above said facts have not been denied by the Management either in the form of counter or in the form of evidence. In the absence of contra evidence, the evidence of the respondent before the Labour Court is acceptable and therefore, the Labour Court has taken the salary as stated by the respondent workman. Therefore, there is no illegality in arriving to the said conclusion by the Labour Court. The Labour Court passed an Award after considering the materials and there is no illegality or perversity found in the order passed by the Labour Court and therefore, it does not warrant interference by this Court.

9. In view of the above discussions, this Court is of the opinion that the Writ petition has no merits and deserves to be dismissed.

10. Accordingly, the Writ petition is dismissed. There shall be no



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order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order
mjs

To

The III Additional Labour Court, Chennai.

P. DHANABAL, J.,



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