



W.P. No.18418 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.18418 of 2023
and W.M.P. No.17633 of 2023

R. Vijayakumar S/o. Ramaiya

...

Petitioner

Vs.

The Management of Christian Medical College,
Post Box No.3, Ida Scudder Road,
Vellore – 632 004.

.... Respondent

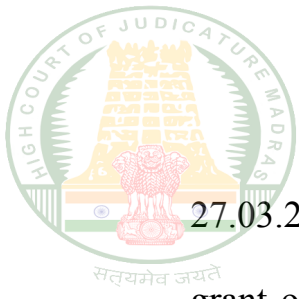
PRAYER: The Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus directing to call for records pertaining to the order passed by the Industrial Tribunal, Chennai dated 27.03.2023 in A.P. No.34 of 2020 and to quash the same and consequently to direct the respondent to reinstate the service of the petitioner with all backwages and other benefits.

For Petitioner : Mr. S. Vijayakumar

For Respondent : Mr. Sanjay Mohan for
M/s. S. Ramasubramanian &
Associates

ORDER

This Writ petition has been filed challenging the order passed by the Industrial Tribunal, Chennai in Approval petition in A.P. No.34 of 2020 dated



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27.03.2023, wherein the respondent Management has filed an application for grant of approval for the dismissal order passed against the petitioner in the Disciplinary proceedings.

2. The learned counsel appearing for the petitioner would submit that the petitioner was working in the respondent's hospital as a 'House Keeping Attendant' for more than 10 years. While so, based on the complaint given by the Staff to the respondent alleging that the petitioner peeped at a female Staff while she was in the bath room, thereby, there was an enquiry conducted by the Gender Sensitization Internal Complaints Committee under the Sexual Harassment of Workmen at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and thereafter, the Management imposed a major punishment of dismissal from service through an order dated 29.09.2020. Thereafter, the respondent approached the Tribunal for grant of approval and the Tribunal without considering the merits of the case, granted approval erroneously. There is no prima facie case based on the acceptable evidence and no principles of natural justice have been followed and there is a victimization. However, the Tribunal without considering the same and without analysing the evidences in a proper perspective manner, granted approval. Therefore, the order passed by the Approval Authority by granting approval is liable to be quashed.



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3. The learned counsel appearing for the respondent would submit that the petitioner, while working with the respondent Management, has committed an offence of sexual harassment and thereby, enquiry was conducted by the Gender Sensitization Internal Complaints Committee constituted under the Sexual Harassment of Workmen at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and as per the report, a recommendation was made to the Management to impose major punishment of dismissal from service. Based on the same, a dismissal order was passed through an order dated 29.09.2020. Thereafter, the respondent filed an Approval Petition in A.P. No.34 of 2020 before the Industrial Tribunal, Chennai and the Tribunal after following the guidelines laid down by the Hon'ble Supreme Court in *Lalla Ram's case*, granted approval. Therefore, the present Writ petition is liable to be dismissed.

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

5. In this case, there is no dispute in respect of relationship between the parties as 'workman' and 'employer'. The petitioner was employed under the respondent and there was a charge against the petitioner in respect of sexual harassment in the workplace and thereby, an enquiry was conducted and as per the enquiry, charge against the petitioner was proved and thereafter, the

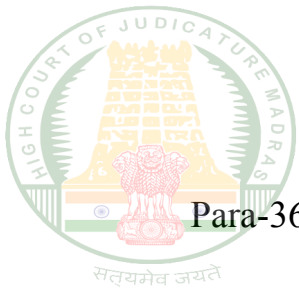


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Gender Sensitization Internal Complaint Committee under the Sexual Harassment of Workmen at Workplace (Prevention, Prohibition and Redressal) Act, 2013 recommended the Management to impose major penalty of dismissal from service, thereby, an order was passed by the Management by dismissing the petitioner from service through an order dated 29.09.2020.

6. Further the respondent also filed an Approval Petition for grant of approval before the Labour Court. The Labour Court, after analysing the evidence, allowed the approval petition and held that “enquiry was conducted in a fair and proper manner and prima facie case is made out based on the acceptable evidence and there is no victimization and one month salary was also paid to the petitioner and the approval petition was also filed within a reasonable time and thereby, complied the guidelines issued by the Hon'ble Supreme Court in *Lalla Ram's case* and also complied the conditions under Section 33(2)(b) of the Industrial Disputes Act”. The above said order passed by the Tribunal is within the scope of Section 33(2)(b) of the Industrial Disputes Act.

7. At this juncture, it is relevant to refer the judgment of ***John D'Souza vs. Karnataka State Road Transport Corporation reported in 2019 SCC Online SC 1347***, wherein the Hon'ble Supreme Court has categorically held in



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Para-36 as under:

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"It, thus, stands out that though the Labour Court or the Tribunal while exercising their jurisdiction under Section 33(2)(b) are empowered to permit the parties to lead evidence in respect of the legality and propriety of the domestic enquiry held into the misconduct of a workman, such evidence would be taken into consideration by the Labour Court or the Tribunal only if it is found that the domestic enquiry conducted by the Management on the scale that the standard of proof required therein can be 'preponderance of probability' and not a 'proof beyond all reasonable doubts' suffers from inherent defects or is violative of principles of natural justice. In other words, the Labour Court or the Tribunal cannot without first examining the material led in the domestic enquiry jump to a conclusion and mechanically permit the parties to lead evidence as if it is an essential procedural part of the enquiry to be held under Section 33(2)(b) of the Act".

8. Therefore, there is no any perversity in the order passed by the Labour Court by granting approval and still the petitioner has right to challenge the dismissal order before the appropriate Forum. Therefore, this Writ petition has no merits and deserves to be dismissed. However, the petitioner is at liberty to challenge the dismissal order in the manner known to law. The petitioner is also entitled to the benefit of limitation under Section 14 of the Limitation Act for the pendency of proceedings.

9. With the above said observations, this Writ petition is dismissed. There shall be no 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

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P.DHANABAL, J.,

mjs

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