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W.P.No.18868 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.18868 of 2019

And

W.M.P.No.18234 of 2019

The Management of KMF Automotive Pvt Ltd.,
Rep. by its Managing Director ... Petitioner

Vs.

G.Kalaiarasi ... Respondent

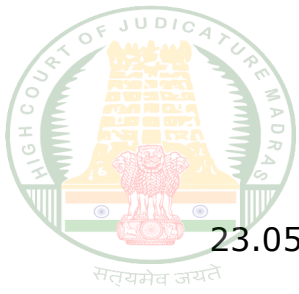
Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the order of the First Additional Labour Court, Chennai in I.D.No.82 of 2018 dated 23.05.2019 and quash the same.

For Petitioner : Mr.S.Mohan
For Respondent : Mr.V.Prakash
Senior Counsel
for M/s.M.Karthikeyani

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the order of the First Additional Labour Court, Chennai in I.D.No.82 of 2018 dated



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23.05.2019 and quash the same.

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2.The learned counsel appearing for the petitioner submitted that the respondent joined the service of the petitioner company on 12.06.2012 as 'on the job trainee' with one year as period of probation and her service was confirmed with effect from 18.10.2013. The petitioner granted maternity leave to the respondent from 07.09.2015 to 31.07.2016 including gratitude leave of two months and since the respondent did not report to duty thereafter, the petitioner sent a letter dated 24.08.2016 to the respondent to resume duty and the respondent reported to duty on 21.09.2016 without producing any medical certificate or leave letter for the days of her absence. Thereafter since the respondent was unauthorisedly absent for several days and since she expressed that she would resign from the job to the Production Manager and one of the Workers' Committee Member on 08.11.2016 and did not come to work thereafter, she was relieved from service with effect from 31.12.2016.

3.The learned counsel appearing for the petitioner further submitted that thereafter the respondent raised industrial dispute under Section 2A(2) of the Industrial Disputes Act in I.D.No.82 of 2018



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and the Labour Court passed the impugned order directing the petitioner to reinstate the respondent with continuity of service and 30% backwages. The learned counsel further submitted that since the respondent expressed that she would resign from the job to the Production Manager and one of the Workers' Committee Member and did not report to work thereafter, she was relieved from service, however, the Labour Court arrived at a conclusion that the relieving order is not sustainable one, which warrants interference.

4.The learned Senior Counsel appearing for the respondent submitted that admittedly, the respondent was granted maternity leave from 07.09.2015 to 31.07.2016. Thereafter, the respondent's child suffered jaundice and the respondent had to take care of her child and the same was intimated to M.W.1 and on his permission, the respondent took further leave. The learned Senior Counsel further submitted that before passing relieving order, proper enquiry should be conducted, however, in the present case without conducting any enquiry the relieving order was passed and further submitted that the respondent is a member of United Labour Federation [in short ULF] and in view of the respondent's active participation in ULF relieving



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order was passed without conducting enquiry, which is not sustainable one.

The learned Senior Counsel further submitted that for unauthorized absence, the punishment of dismissal from service, is highly disproportionate, thereby, the Labour Court ordered for reinstatement, which does not warrant any interference.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. Admittedly, the respondent joined the service of the petitioner company on 12.06.2012 as 'on the job trainee' with one year as period of probation and her service was confirmed with effect from 18.10.2013. The respondent was granted maternity leave from 07.09.2015 to 31.07.2016. Thereafter, since the respondent was unauthorisedly absent for several days, she was relieved from service with effect from 31.12.2016. However, before passing relieving order, proper enquiry should have been conducted. In the present case without conducting any enquiry the relieving order has been passed, which is not sustainable one. Further, for unauthorized absence, the punishment of dismissal from service, is highly disproportionate and hence the impugned order warrants no interference.



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7.The writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The First Additional Labour Court,
Chennai.



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M.DHANDAPANI,J.
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