



W.P.No.5935 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.5935 of 2016

E.Narsimmalu

... Petitioner

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The Management of MRF Limited,
Represented by its General Manager,
Ichiputhur Village and Post,
Arakonam Taluk,
Vellore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records the first respondent in connection with the award in I.D.No.71 of 2007 pronounced on 28.06.2012 including the preliminary order pronounced on 04.08.2011 and quash the same.

For Petitioner : Mr.V.Prakash,
Senior Counsel
for M/s.K.Sudalaikannu

For Respondents : Labour Court [R1]
Mr.S.Shivathanu Mohan



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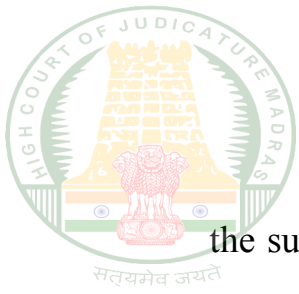
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for M/s.S.Ramasubramaniam &
Associates [R2]

ORDER

Aggrieved by the order dated 04.08.2011 passed by the Principal Labour Court, Vellore in I.D.No.71 of 2007, the petitioner-workman has filed the present writ petition.

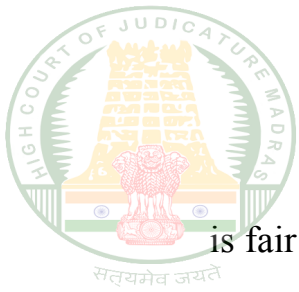
2. The case of the petitioner is that he joined in the 2nd respondent-management on 21.04.1994 as an Apprentice in the Arakonam Factory. From the date of his appointment in service, he had been doing the work as performed by the permanent workmen in a continuous and without any blemish. Vide order dated 21.03.1998, the management appointed him as a probationer and eventually confirmed in service vide order dated 21.09.1988. Whiles, the management has issued a charge memo dated 02.03.2004 alleging that on 26.02.2004, in the third shift, the petitioner refused to do the assigned work and when another workman was about to do the said work, he obstructed him from doing the work. Further, it is alleged that though the supervisor repeatedly directed the petitioner to perform the work assigned to him, he refused to do so and further abused



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the supervisor using filthy language. He gave his explanation to the said charge memo on 10.03.2004 denying charge allegations contained in the memo. Thereafter, the management had conducted departmental enquiry and passed the order of dismissal dated 22.01.2005. Aggrieved by the same, the petitioner has raised an industrial dispute before the labour court in I.D.No.71 of 2007 and the same was dismissed vide impugned order. Challenging the same, the present writ petition has been filed.

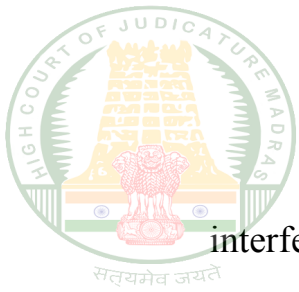
3. Learned Senior Counsel appearing for the petitioner submitted that the allegation made against the petitioner is that he committed misconducts of slowing down of work including any stoppage of work, failure to perform normal duties, habitual low performance of work standards and non fulfillment of industrial engineering standards and use of impolite or insulting or abusive language against any superior. In to prove the same, no independent witness were examined on behalf of the 2nd respondent management and the petitioner himself examined as W.W.1 and in order to prove the allegation by the management against the petitioner, no official witness were examined including the supervisor alleged to have been abused by the petitioner. Further, the labour court arrived at a conclusion that the enquiry conducted by the 2nd respondent



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is fair and proper, thereby they have not examined any witness before the labour court. Even then the enquiry proceedings has to be established before the labour court, then only the labour court can draw inference in the enquiry proceedings. In the present case, without any iota evidence, the labour court confirmed the order of dismissal passed by the 2nd respondent, which is perverse. Accordingly, he prays for allowing this writ petition.

4. Per contra, learned counsel appearing for the 2nd respondent submitted that the preliminary award was passed in respect of fairness of the enquiry and the labour court arrived at a conclusion that the enquiry was conducted in a proper and fair manner, thereby they passed the preliminary the become final, thereby the management not examined any witness before the labour court since already the substantial issue in the preliminary award. Hence, there is no need for examining any witness before the labour court in the final award. Further, he submitted the enquiry officer drawn a proven minute as against the petitioner on the basis of the evidence, which was adduced before the enquiry proceedings, thereby the preliminary award was passed in favour of the 2nd respondent. Such a finding rendered by the labour court needs no



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interference. In respect of allegation made against the petitioner was well established before the labour court though the petitioner claims that in view of the trade union activities, he was victimised by the enquiry officer, however the phamplets which was published by the trade union was marked before the labour court in which the petitioner name was not found. Hence, such a stand taken by the petitioner is not substantiated. The factual finding rendered by the labour court cannot be adjudicated under Article 226 of Constitution of India unless the petitioner establishes the perversity of the order passed by the labour court. Accordingly, he prays for dismissal of the writ petition.

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

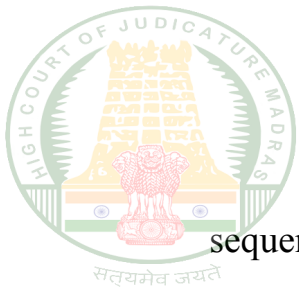
6. Admittedly, the petitioner entered the service of the 2nd respondent management in the year 1986 and was made permanent in the year 1988. Thereafter, in the year 2005, for the alleged misconduct, after conducting domestic enquiry, he was dismissed from service, aggrieved by the same, he raised an industrial disputed and the same was dismissed, assailing which, the present has been filed.



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WEB COPY 7. When the matter was taken up for hearing, this Court, considering the issue involved and the passage of time from the date on which the workman was dismissed from service, as about two decades have passed since the order of dismissal, had suggested that the matter may be settled by the parties by paying a consolidated amount, as no useful purpose would be served in continuing the litigation, as by now the workman had crossed the age of superannuation and he having not been in service, on the basis of no work no pay would not be entitled for backwages and cannot also be reinstated in view of his age of superannuation and all through these years, the workman would not have remained unemployed, as he would definitely have to have eked his livelihood by being employed elsewhere, however, the learned counsel appearing for the parties were not inclined to come for a settlement and, therefore, did not consent to an order for settlement, as proposed by this Court.

8. Though consent has not been given by the parties, however, this Court, sitting under Article 226 of the Constitution, is required to render substantial justice and in view of the facts narrated above and the



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sequence of events that have passed through the two decades, when the parties have been fighting out their rights before the judicial forum, this Court, in exercise of its powers is inclined to direct the 2nd respondent-management to pay a lumpsum towards full quit as settlement.

9. Accordingly, this Court without interfering with the impugned order passed by the labour court dated 28.06.2012 made in I.D.No.71 of 2007, directs the 2nd respondent-management to pay a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) as settlement in full quit in favour of the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

10. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

18.03.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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To

The Presiding Officer,
Principal Labour Court,
Vellore.

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