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W.P.No.23996 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.23996 of 2019

General Secretary,
Tamilnadu Medical and Sales
Representatives Association,
No.3, Kambar Street,
Abith Colony, Saidapet,
Chennai – 600 015.

... Petitioner

Vs.

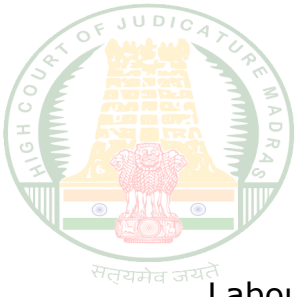
1. Director,
Abbott Healthcare Pvt. Ltd.,
D.Mart Building,
Goregaon – Mulund Link Road,
Mulund (W), Mumbai – 400 080.

2. Zonal Business Manager,
Abbott Healthcare Pvt. Ltd.,
Multispeciality Division,
56, 57/25, I Floor,
16th Main Road,
BTM Layout 2nd Stage,
Bengaluru – 560 076.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the award dated 08.01.2019, received by the petitioner on 07.02.2017, passed in I.D.No.284 of 2013 by the Hon'ble III Additional



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Labour Court, Chennai and quashing the same, consequently directing to the respondents to pay the nine employees the wages as mentioned in the annexure to the reference made to the Labour Court.

For Petitioner : Mr.K.Elango
For Respondents : Mr.P.Nehru

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records relating to the award dated 08.01.2019, received by the petitioner on 07.02.2017, passed in I.D.No.284 of 2013 by the III Additional Labour Court, Chennai and quash the same, consequently direct the respondents to pay the nine employees the wages as mentioned in the annexure to the reference made to the Labour Court.

2.The learned counsel appearing for the petitioner Association submitted that nine members of the Association who are working under the second respondent namely, Murali, Sreedhar, Saravanan, Ravindran, Ramesh, Sankaran, Pattabiraman, Jeevarathinam and Jyothiramalingam availed casual leave in June/ July, 2010 to attend the national convention on 18.07.2010 and after three months, the Management informed the employees that their leave applications

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were rejected on the ground of 'business exigencies' and deducted wages without calling for any explanation. Aggrieved by the same, the petitioner Association raised industrial dispute under Section 2K of the Industrial Disputes Act and the Labour Court dismissed the industrial dispute.

3.The learned counsel appearing for the petitioner Association further submitted that as per Clause 8.2 of the settlement dated 25.02.1999 which was in operation from 01.07.1997 to 30.06.2013, a representative shall be entitled to 7 working days casual leave during a calender year and intimation of casual leave should be given within seven working days after availing casual leave, however, without considering the same, the Labour Court dismissed the industrial dispute. This Court may issue direction to the Management to pay the salary deducted for the leave period from the said nine employees.

4.The learned counsel appearing for the respondents submitted that out of the nine persons, only four persons availed casual leave as per the settlement and five persons exceeded the limit prescribed in the settlement. The learned counsel further submitted that all the nine



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persons very well know that they are going to attend the national convention on 18.07.2010, however, they did not submit their leave application in advance and the same was rightly appreciated by the Labour Court and the industrial dispute was dismissed, which warrants no interference.

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

6. For better appreciation, Clause 8.2 of the settlement dated 25.02.1999 is extracted hereunder:

"8.2 Casual Leave

A Representative shall be entitled to 7 working days Casual Leave during the Calendar year. Such of the Representatives who join service during the calendar year shall be entitled to casual leave, pro-rata. Casual Leave cannot be availed of more than 3 days at a time. Prior intimation to the Area Sales Managers concerned should be given of Casual Leave wherever possible but in any case information should reach the Area Sales Managers concerned within 7 working days,



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after availing of the Casual Leave. After Casual Leave is exhausted, a Representative is allowed to utilise his privilege Leave in exceptional circumstances for a period of less than 3 days."

7.As per Clause 8.2 of the settlement dated 25.02.1999, casual leave cannot be availed of more than 3 days at a time. Prior intimation to the Area Sales Managers concerned should be given of Casual Leave wherever possible but in any case information should reach the Area Sales Managers concerned within 7 working days, after availing of the Casual Leave.

8.In the present case, all the nine persons know very well that they are going to attend the national convention on 18.07.2010 and hence they ought to have made leave application prior to 18.07.2010, so that the Management can adjust the work and allot the work to other employees, however, only Ramesh, Sankaran and Pattabiraman had made leave application prior to 18.07.2010 and the other persons have not made leave application prior to 18.07.2010. Hence, the persons who made leave application after 18.07.2010 are not entitled for salary during the leave period at the relevant point of time.



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9.Only three days casual leave can be availed at a time. Hence, this Court is of the opinion that only the persons who made leave application prior to 18.07.2010, namely, Ramesh, Sankaran and Pattabiraman are entitled for salary for three days during the relevant point of time and not beyond three days. Accordingly, the Management is directed to pay three days salary for the relevant point of time to Ramesh, Sankaran and Pattabiraman, within a period of six weeks from the date of receipt of a copy of this order.

10.The writ petition is disposed of with the above terms. No costs.

16.04.2025

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The III Additional Labour Court,
Chennai.

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M.DHANDAPANI,J.
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