



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:30.07.2025

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.27811 of 2022

S.Raju

...Petitioner

Vs

M/s.Cloudnine Serviced Apartments,

Rep by its Managing Director

No.32/33, Oliver Road,

Mylapore,

Chennai 600 004.

...Respondent

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records in OP.No.121 of 2021 on the file of the III Additional Labour Court, Chennai and quash the award in respect of the disallowed portion of the Original Petition and direct the respondent to pay the backwages to the petitioner from April, 2020.

For Petitioner : Mr.K.Sivasubramanian

For Respondent : Ms.S.Muthukumar

ORDER

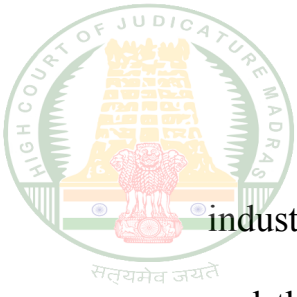
This Writ Petition has been filed challenging the Order passed by the III Additional Labour Court, Chennai in O.P.No.121 of 2021 dated 21.06.2022, wherein, the petitioner herein raised an industrial dispute before the Labour Court and the same was partly allowed by



WEB COPY

directing the respondent to reinstate the petitioner into service without backwages. Aggrieved by the said order in denying the backwages, the present writ petition is filed.

2. Learned counsel for the petitioner would submit that the petitioner joined service in the respondent's Company on 18.12.2015 as driver and was promoted as Senior Driver and was working as a driver of the Managing Director of the respondent's Company and was drawing the salary of Rs.17,000/- p.m., Suddenly on 23.03.2020, the respondent instructed the petitioner not to come for work due to Covid -19. When the lock down was partly lifted, the petitioner visited the respondent Management to join in the work. But the respondent failed to give employment to him. In the month of September, 2020, when the petitioner approached the respondent, he came to know that the respondent had appointed another person in the place of the petitioner. Therefore, without assigning any reason and without enquiry, the respondent removed the petitioner from service orally. Therefore, the petitioner approached the Labour Officer seeking for reinstatement and failure report was sent to the authority and the matter was referred for adjudication by the Labour Court. Thereafter, the petitioner raised an



WEB COPY

industrial dispute before the Labour Court, Chennai in OP.No121 of 2021 and the same was partly allowed by reinstating the petitioner in service without any backwages. Once the Labour Court ordered for reinstatement, it ought to have ordered for backwages also. It is an erroneous finding of the Labour Court that the petitioner was gainfully employed and thereby declined to grant backwages. Therefore, the order passed by the Labour Court in respect of declining backwages is liable to be set aside.

3. Learned counsel appearing for the respondent Management would submit that the respondent was appointed as a driver in its Company and he was temporarily employed in the year 2015 and was paid salary of Rs.17,000/- p.m., He was irregular and was absented to work for some months and he was exactly employed from 18.12.2015 to 31.03.2019. Thereafter, the petitioner discontinued his employment and he was not stopped due to Covid - 19 situation as alleged, but he himself absented from duty. Thereafter, he raised an industrial dispute and the Labour Court directed the respondent to reinstate the petitioner without any backwages. Even after the order passed by the Labour Court when the respondent offered employment, he failed to join duty. Without



joining the duty, he has filed this Writ Petition and hence, this writ petition is liable to be dismissed.

WEB COPY

4. This Court heard both side arguments and perused the materials available on record.

5. In this case, the respondent denied the alleged retrenchment. According to the petitioner, the respondent denied employment in its Company and orally terminated him from service. According to the respondent, the petitioner has voluntarily abandoned his service.

6. Before the Labour Court, on the side of the petitioner, he was examined as WW1 and marked exhibits as W1 to W5. On the side of the respondent, the Manager was examined as MW1 and through him, marked exhibits as Ex.M1 to Ex. M7.

7. After considering the evidences adduced on both sides, the Labour Court passed an order directing the respondent to reinstate the petitioner into service without backwages.

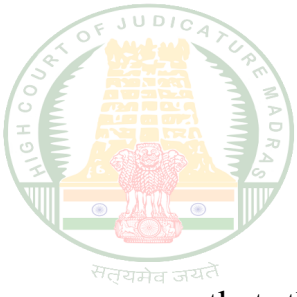
8. The respondent has not challenged the order in respect of the



WEB COPY

reinstatement. According to the respondent, he is ready to give employment to the petitioner, but the petitioner did not appear for employment, since the petitioner was employed gainfully, the Tribunal declined to award backwages.

9. Now the writ petitioner challenged the order only in respect of the backwages. The Labour Court declined to grant backwages to the petitioner on the ground that the petitioner was gainfully employed based on his admissions made during his cross examination. In the cross examination, the petitioner admitted that from March, 2020 till date, he was working as an acting driver and earned a sum of Rs.15,000/- p.m., Therefore, the petitioner was gainfully employed. Even now the respondent is ready to give employment to the petitioner. But the petitioner was not ready to accept the employment offered by the respondent. Therefore, the Labour Court declined to award backwages to the petitioner. Therefore the Labour Court after considering the evidences and the admission made by the petitioner, passed the said order and declined to grant backwages. The order passed by the Labour Court, is in accordance with law and hence, the same does not warrant any interference of this court.



WEB COPY

10. In view of the above discussions, this Court is of the opinion that this Writ Petition has no merits and the same deserves to be dismissed. Accordingly, this Writ Petition is dismissed. No costs.

30.07.2025

Index: Yes/No
Internet: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

To
M/s.Cloudnine Serviced Apartments,
Rep by its Managing Director
No.32/33, Oliver Road,
Mylapore,
Chennai 600 004.

P.DHANABAL.,J.



WEB COPY



Gv

W.P.No.27811 of 2022

30.07.2025