



WEB COPY



W.P.No.32463 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM :

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

W.P.No.32463 of 2019

and

W.M.P.Nos.32779 of 2019 & 24157 of 2021

The Management,
M/s.Shinsung Petrochemical Private Limited,
No.F-24, SIPCOT Industrial Complex,
Gummidipoondi, Thiruvallur District – 601 201.

...Petitioner

Vs.

D.Satheesh Kumar

...Respondent

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records pertaining to the Award dated 24.09.2019 made in I.D.No.493 of 2017 passed by the II Additional Labour Court, Chennai and to quash the same.

For Petitioner : Mr.V.Parthiban
for M/s.N.Devi

For Respondent : Mr.R.Diwakar



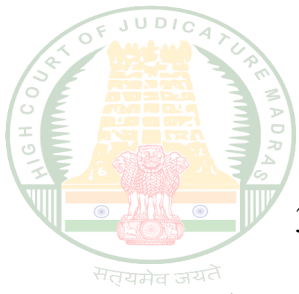
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ORDER

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This Writ petition has been filed seeking quashment of the award dated 24.09.2019 made in I.D.No.493 of 2017 on the file of the II Additional Labour Court, Chennai.

2. The case of the petitioner is that, the respondent was working as a Driver in the petitioner management since October 2011. While so, as the petitioner management took a decision to let out transport on contract basis, the respondent was shown the gate. Though the respondent approached the petitioner management seeking for reinstatement, his pleas fell into deaf ears and the conciliation also failed, which resulted in raising an industrial dispute before the II Additional Labour Court, Chennai and the same was taken on file as I.D.No.493 of 2017 and the labour court on an analysis of the materials available before it concurred with the respondent that the denial of work was bad in law and directed the petitioner management to reinstate the respondent in an alternate job with continuity of service and to pay 50% of backwages, vide impugned order dated 24.09.2019. Challenging the same, the petitioner has come up with this Writ petition.



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3. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

4. The major contention of the learned counsel for the petitioner is that though they denied the respondent a job of a driver, they were willing to accommodate him in an alternate post. However, the petitioner has nowhere either before the labour court or in the averments raised in the affidavit filed in support of this Writ petition had stated what alternate job they were ready to provide the respondent.

5. The respondent was admittedly employed as a Driver and a driver would earn a handsome salary and he would get other perks like overtime duty, outstation duty and the like. Under the guise of providing an alternate job, if the petitioner offers the post of Security guard or a Gardener, such post would fetch only a paltry sum as monthly income and no employee would agree for accepting a job that would pay him less than what he was earning before. Therefore, the apprehension of the respondent is justified.

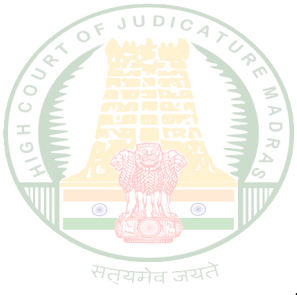


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6. The Labour court, vide impugned order dated 24.09.2019 has ordered for reinstatement of the respondent in an alternate job with 50% backwages and continuity of service. The said order is modified as under:

(i) The petitioner shall offer the respondent an alternate job commensurating with the post of Driver, that would carry same salary as that of a driver.

(ii) The Labour court has ordered for 50% backwages, which direction needs interference, as the respondent was not discharging any duty, be it as a Driver or as any other employee of the petitioner management. Therefore, applying the principles of no work no pay, this Court fixes a sum of Rs.50,000/- as backwages in lieu of 50% backwages fixed by the labour court and the amount of Rs.50,000/- shall be paid by the petitioner in favour of the respondent within a period of two weeks from the date of receipt of a copy of this order. It is made clear that the respondent would be entitled for continuity of service also.



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7. With the above observations and directions, this Writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

17.04.2025

skt

Index	: Yes/No
Speaking Order	: Yes/No
NCC	: Yes/No

To:

The II Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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