



W.P.No.24186 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

Writ Petition.No.24186 of 2017

Yoga

... Petitioner

Vs.

The Managing Director,
M/s. Sunbeam Generator (P) Ltd,
24/3A, 3B, 3C & 3D Canal Road,
Koodapakkam Villianur,
Puducherry.

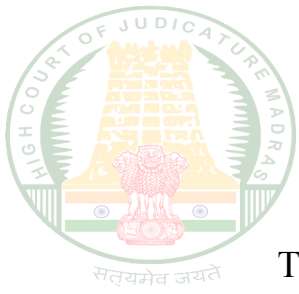
... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorari Mandamus to call for the records pertaining to the impugned award dated 30.05.2017 made in ID (L) No.18 of 2014, on the file of Labour Court Puducherry and set aside the same as illegal, consequently allow the said Industrial Dispute.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondent : Mr.John Zachariah

ORDER



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This Writ Petition is filed seeking Writ of Certiorarified Mandamus to call for the records in ID (L) No.18 of 2014 dated 30.05.2017 made on the file of Labour Court Puducherry and quash the same.

2. The petitioner has joined the respondent as Probationer for a period of three months, however he has worked continuously for a period of five years. The petitioner was removed from service alleging misconduct. It is submitted by learned counsel for the petitioner that, removal of the petitioner without conducting any enquiry after putting up 5 years of service, amounts to unfair to the Labour facts. He also submitted that, though as per the standing orders, the probationary period was only for three months, his service were extended as probationer beyond three months.

3. It is submitted by the learned counsel for the respondent that, these issues are raised by the petitioner for the first time before this Writ Court and the learned counsel for the petitioner also concedes that these aspects were not pleaded and not agitated before the Labour Court. Accordingly, the impugned award does not speak anything about these two aspects.

4. Since these two aspects have not been pleaded before the Labour



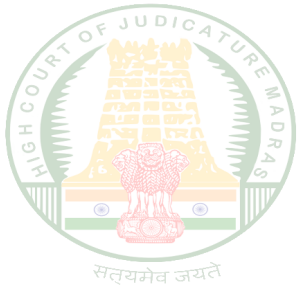
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Court and that there was no occasion for the Labour Court to consider these aspects in the impugned award, the learned counsel for the petitioner requested this Court to remand the matter back to the trial Court so that, during the course of the enquiry, petitioner, will plead the issues that are raised in this Writ Petition.

5. Considering the submissions of both sides, the impugned award in ID (L) No.18 of 2014 dated 30.05.2017 on the file of Labour Court, Puducherry is hereby set aside, and the matter is remanded back to the Labour Court, Puducherry only to the limited extent as to whether termination of the petitioner amounts to unfair labour practice and consequences of permitting the petitioner as probationer beyond three months, with a direction to permit the parties to file fresh additional pleadings and permit them to produce fresh evidence, only in respect of the issues for which case is remanded and dispose the same as quickly as possible not later than 16 weeks from the date of receipt of copy of this order. It is made clear that the earlier findings of the Labour Court in the impugned award stands good, and are unaltered.

6. With the above directions, this Writ Petition is disposed of. No cost.



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Sma
Index: Yes/No
Speaking Order: Yes/No
To

The Labour Court,
Pondicherry.

Dr.D. NAGARJUN, J.

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