



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO. 7312 OF 2019 (L-RES)

BETWEEN:

SAMPATH KUMAR N,
AGED ABOUT 49 YEARS,
S/O LATE NAGANNA,
RESIDING AT NO 194, 3RD CROSS,
A K COLONY, FRAZER TOWN,
BENGALURU - 560032.

...PETITIONER

(BY SRI NARAYANA SWAMY K B.,ADVOCATE)

AND:

THE MANAGEMENT OF
EXPRESS PUBLICATIONS (MADURAI),
EXPRESS BUIDINGS, NO.1, QUEENS ROAD,
BENGALURU - 560001,
REPRESENTED BY ITS
GENERAL MANAGER.

...RESPONDENT

(BY SRI K R ANAND, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF
THE CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE
AWARD DATED 08.03.2018 PASSED BY THE HON'BLE II
ADDITIONAL LABOUR COURT, BANGALORE IN I.D.NO.13/2012
AS AT ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR DICTATING ORDERS,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

Digitally signed
by BELUR
RANGADHAMA
NANDINI

Location: HIGH
COURT OF
KARNATAKA



ORAL ORDER

This petition is filed assailing the award dated 08.03.2018 passed by the II Additional Labour Court, Bengaluru. In terms of which, the claim made by the petitioner-workman under Section 2-A read with Section 10(4-A) of the Industrial Disputes Act, 1947 (for short 'the Act of 1947') is rejected.

2. The fact that the petitioner was a workman under the respondent-employer is not in dispute. The petitioner claims that he joined the respondent-Establishment as unskilled workman in the year 1991. The petitioner was placed under suspension on 07.01.2009 alleging misconduct and on 02.02.2009 charge sheet was issued to the petitioner.

3. The contents of the charge sheet are as under.

1) You are working as Machine man in the Offset Rotary Department. On 2nd January 2009, you reported for work in the night shift which commenced at 8.30 pm. After reporting for duty instead of commencing and continuing your duties, you left your department without the permission of your immediate superior and went to the Process Department. At 23.30 hrs (11.30p.m.) Mr. T P Sasidharan, Production Manager and Mr.R. Sivaraman, Press



Supervisor had visited the Process department for checking the Plate position. They found that you along with some workers of the Rotary department were sitting on the tables and chairs and chit chatting loudly in the Process Department. When the Production Manager instructed all of you to report to your respective work places immediately, since the Kannada Prabha pages and The New Indian Express pages had arrived and the work was in progress, except yourself all the other staff members left the Process Department to their respective departments to resume their work. You remained back and started arguing loudly with the Production Manager stating that he had no authority to instruct you and the others in that matter and further you threatened him that you have the capacity to cause the damage to the machinery and other articles of the company and you have the power to remove the Production Manager from the services of the Company. Thereafter you hurled abuses against the said officer.

- 2) You thereafter started shouting at the workmen of Rotary, Packing and Process department and asked them to stop work and you led them out of the Press to the Time office and in the meanwhile the Production work came to halt. The Production work could be resumed at about 11.50 pm after the superior officers of the*



Company intervened and persuaded the workers to resume work. Thus there was production stoppage for 20 minutes due to your acts as stated above.

- 3) *In respect of the above activities, it was decided to suspend you from the service pending disciplinary action and an Order dated 7/1/2009 was issued and you were directed to receive the same from the Time Office after your shift hours at 4 am. When the same was tendered to you personally by the Time Keeper Sri. Mahesh Kumar, you refused to receive the said Suspension Order and you called the workmen of Rotary, Packing, Process Departments and hurled abuses against the officials of the Company. You did not leave the premises even after the close of your shift working hours and remained within the premises and incited the other workmen to abstain from their duties and prevented them from resuming to their duties. Further you organized an agitation along with some others in and around the Company premises from the date of issue of Suspension Order, you have also been inciting and misleading your co-workers to abstain from their duties illegally.*

- 4) *Of your above acts, if proved, amount to misconduct under the following provisions of*



*the Certified Standing Orders of the
Establishment by which you are governed:-*

*(a) willful insubordination of disobedience,
whether alone or combination with
others to any lawful or reasonable Order
of a Superior Clause 16(2) (i).*

*(b) Riotous or disorderly behaviour, use of
abusive disrespectful language, any act
subversive to discipline Clause 16(2)
(xxi)*

*(c) Refusal to receive a charge-sheet or a
communication issued by the
management. Clause 16 (2) (xxii)*

*(d) Committing, aiding or abetting others to
commit any act prejudicial to the
reputation or financial interest of the
undertaking Clause 16(2) (xxv)*

*5) You are hereby called upon to show cause as to
why disciplinary action should not be taken
against you in respect of the above charges.
Your explanation in writing shall reach the
undersigned within 3 days from the date of
receipt of this charge sheet by you failing which
it will be presumed that you have no*



explanation to offer and further action will be initiated against you in accordance with law without any further reference to you in this regard.

6) Suspension Order dated 7-1-2009 has already been forwarded to you by registered post acknowledgement due and also under certificate of posting. You shall continue to be under suspension pending disciplinary action against you.

4. The petitioner denied the charges and participated in the disciplinary enquiry. The enquiry officer found that all charges are proved and the second show cause notice was issued. The petitioner denied the finding of the enquiry officer. The disciplinary authority dismissed the petitioner from service on 05.11.2011.

5. The petitioner raised the dispute before the Labour Court. The Labour Court found that the enquiry was fair and proper. The parties were permitted to lead evidence relating to the alleged victimisation. The Labour Court also held that the allegation relating to victimisation is not established and rejected the claim petition.



6. Aggrieved by the said award, the petitioner is before this Court.

7. Learned counsel appearing for the petitioner would urge that the disciplinary authority could not have held that the charges are proved in the light of the evidence before the disciplinary authority.

8. It is the contention that the charges are vague and no imputations are furnished along with the charge sheet to connect the petitioner to the charges framed. It is also his further submission that the suspension of the petitioner itself was illegal and same is evidenced by the fact that 25 employees raised a protest objecting the order of suspension imposed on the petitioner.

9. Learned counsel urged that the Labour court did not appreciate the evidence on record in a proper perspective and has erroneously come to the conclusion that the charges are proved and there is no victimization.

10. In the alternative, learned counsel for the petitioner would also submit that this is the first misconduct alleged against the petitioner and there was no past history and the



petitioner had a clean reputation without any adverse remark and that being the position, assuming that the charges are proved, for this minor misconduct, the petitioner could not have been terminated from service and the Labour Court ought to have exercised a discretion under Section 11-A of the Act of 1947.

11. In addition, it is also submitted that the petitioner since last two years is confined to bed as he has suffered a paralytic stroke and it is a fit case that the Court should exercise a discretion in favour of the petitioner.

12. Learned counsel for the respondent would urge that all the charges against the petitioner are very much established on the evidence placed before the enquiry officer. The disciplinary authority has followed the procedure and has rightly issued second show-cause notice based on the findings of the enquiry officer. And, after considering the reply, has come to the conclusion that the petitioner deserved the penalty of dismissal as the misconduct is proved against the petitioner would fall in the category of serious misconduct under the Rules and Regulations applicable to the respondent.



13. It is also submitted that before the Labour Court, the petitioner was permitted to lead evidence and he did not lead any evidence to show that it is a case of victimization. Labour Court has followed the well established principle that it has limited jurisdiction in interfering with the penalty imposed by the employer.

14. The Court has considered the contentions raised at the Bar and has perused the records.

15. As can be noticed from the impugned award, the Labour Court has held that the enquiry was fair and proper and thereafter permitted the parties to lead evidence on the alleged view of victimization. Both parties have lead evidence. The Labour Court has held that the evidence on record would indicate that the finding of the enquiry officer is correct and the misconducts alleged against the petitioner are duly established and on appreciation of evidence has also come to the conclusion that it is not a case of victimisation.

16. The Labour Court has also considered the reasons assigned. The reasons are supported by the evidence. One cannot conclude that the award is without evidence to term it



as perverse in so far as the fining on misconduct and the plea of victimisation.

17. This being the position, concluding the finding, the Court is of the view that materials are not placed before this Court to take a different view on the misconduct alleged against the petitioner.

18. However, when it comes to the punishment, it is noticed that the petitioner was not subjected to any other disciplinary enquiry earlier to this enquiry. It is also noticed that the charges levelled against the petitioner relate to the incident that is said to have taken place on a particular day. It is not a case of multiple misconduct on various dates.

19. The Labour Court has not considered as to whether it should exercise the jurisdiction under Section 11-A of Act, 1947.

20. The Court has taken note the gravity of the misconducts. The Court has also taken note of the fact that there are no previous misconduct and the misconduct proved appears to have been committed on spur of a moment. On account of the misconduct the work stopped for 20 minutes.



This being the position, the Court is of the view that it was fit case for the Labour Court to exercise jurisdiction under Section 11-A of Act, 1947. However, Labour Court has not exercised the said discretion.

21. It is also stated that the petitioner has suffered the stroke and is confined to the bed. Thus, it is not desirable to refer the matter back to the Labour Court to consider the case from the perspective of Section 11-A of the Act, 1947.

22. Considering the misconducts alleged against the petitioner, the past history of the petitioner, and the circumstances under which the incident has taken place, the Court is of the view that the penalty of dismissal of employment is harsh and disproportionate to the misconduct proved.

23. Though the learned counsel for the respondent strenuously urged that clean past is no ground to reduce the penalty, the Court is of the view, that law in this regard as held by the Apex Court cannot be used as a straitjacket formula. The Court is of the view, for the reasons already discussed, that



the petitioner is entitled to compensation as the penalty of dismissal was too harsh.

24. It is also noticed that when the dispute was raised in the year 2012, the petitioner was 43 years. At this point of position there is no question of reinstatement of the petitioner. Thus, the petitioner is entitled to certain sum as a compensation. It is also stated that petitioner was earning around Rs.10,225/- per month at the time of termination and it is also stated that he was paid suspension allowance from the date of suspension to the date of dismissal.

25. Taking all these factors into consideration, the Court is of the view that the petitioner is entitled Rs.5,00,000/- (Rupees Five Lakhs only) as compensation. Though technically it is possible to urge that the said amount is due from date of the award of the Labour Court, and the interest is to awarded on the said sum, the Court is of the view that Rs. 5,00,000/- without interest would be appropriate.

26. Hence the following:



ORDER

- (i) The Writ Petition is ***allowed in part.***
- (ii) Impugned award dated 08.03.2018 in I.D.No.13/2012 is set aside in part.
- (iii) Since the petitioner has attained the age of superannuation, Rs.5,00,000/- is awarded as compensation towards discharge of all claims of the petitioner against the respondent.
- (iv) No order as to cost.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**

SMJ/CHS
List No.: 1 Sl No.: 43