

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 19TH DAY OF JANUARY 2015/29TH POUSHA, 1936

WP(C).No. 14974 of 2010 (V)

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ID. NO.15/2003 OF INDUSTRIAL TRIBUNAL, IDUKKI.**

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PETITIONER(S):

**WORKERS' CONGRESS, REG. NO.062 -93,
MUNNAR, IDUKKI DISTRICT, PIN-685 619.**

**BY ADVS.SRI.C.ANIL KUMAR,
SMT.A.K.PREETHA.**

RESPONDENT(S):

- 1. INDUSTRIAL TRIBUNAL, IDUKKI.**
- 2. K.R.V. CARDAMOM PLANTATIONS PVT. LTD,
REPRESENTED BY ITS MANAGER,
SANTHANPARA. P.O, IDUKKI-685 619.**

R1 BY GOVT. PLEADER SRI.R. RANJITH.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-01-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

WP(C).No. 14974 of 2010 (V)

APPENDIX

PETITIONER'S EXHIBITS:-

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|--------|--|
| EXT.P1 | COPY OF THE CLAIM STATEMENT FILED BY THE PETITIONER
IN I.D. NO.15/2003. |
| EXT.P2 | COPY OF THE WRITTEN STATEMENT FILED BY THE
2ND RESPONDENT. |
| EXT.P3 | COPY OF THE AWARD PASSED BY THE 1ST RESPONDENT
IN I.D. NO.15/2003. |
| EXT.P4 | COPY OF THE JUDGMENT IN AS. NO.88/2001 OF SUB COURT,
KATTAPPANA. |

RESPONDENT'S EXHIBITS:-

NIL.

//TRUE COPY//

P.A TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No. 14974 of 2010

Dated this the 19th day of January, 2015

J U D G M E N T

The petitioner, a union, espouses the cause of a worker, of the 2nd respondent plantation. The 2nd respondent, despite notice, has not appeared. The issue referred for adjudication was the justifiability of the dismissal of the worker one Vilasini. The dismissal was pursuant to an enquiry conducted and the finding of guilt with respect to the allegation of assault against and the injury caused, to the employees of the management.

2. The Labour Court having considered the validity of the enquiry as a preliminary question, held the same to be valid; finding the deliberate omission of the worker to participate in the proceedings. The enquiry having been upheld by a preliminary order,

the findings of the enquiry were found to be proper and the punishment imposed was upheld.

3. The incident, which occurred on 11.11.1998, arose out of a property dispute between the management and the husband of the worker. Admittedly, there was an altercation in which the husband of the worker, herself and other family members were involved and in which, the employees of the management suffered injuries. The property dispute between the management and the husband of the worker was with respect to 9 acres of property with respect to which, the management had filed O.S No.309/98 and obtained injunction against the husband of the worker. It was when the said injunction was in operation, the alleged trespass occurred.

4. When the enquiry officer issued notice to

the worker, the worker abstained from appearing before the enquiry officer and merely sent a communication that the enquiry proceedings should be kept in abeyance, till a decision is arrived at in the criminal case filed by the management and also should await the result of the civil suit, which the management initiated. Despite a number of notices to the delinquent worker, the worker refused to appear before the enquiry officer and maintained her stand that the enquiry proceedings should await the decision in the criminal and civil cases. It was in such circumstances, that the Labour Court found that it could not be said that the enquiry was held in violation of the principles of natural justice since the non-participation of the worker was, her own making.

5. The consistent stand of the worker was that the enquiry could be proceeded with only after

settlement of the civil case and the criminal case. The Labour Court relied on the settled position of law that the decision in the civil and criminal cases would not have any relevance insofar as the allegations of misconduct which are examined in the enquiry, proceeded against by the management. This court is inclined to agree with the aforesaid findings of the Labour Court, especially since, the allegation was with respect to a trespass made into the property which the management claimed and, over which, the management had an injunction against the husband of the worker.

6. The fact that eventually the civil suit was decreed against the management, would be of no consequence, since at the time of the incident, the fact that the worker or the husband of the worker could not have trespassed into the property. The

allegation raised against the worker was not merely possession or occupation of property of the management; which alone would require an examination of the actual title to the property. Admittedly, there was dispute with respect to a definite extent of property, settlement of which was pending before the Civil forum. The Civil Court had also passed an order of injunction against the husband of the worker. The contention that trespass was committed by the management cannot be countenanced. What the worker and her husband did was to trespass into the property and commit violence on the employees of the management.

7. If at all the worker had a different version about the incident, then, the worker ought to have attended the enquiry and also produced witnesses and documents to substantiate such

contention. In any event, the alleged incident on 11.11.1998, against the worker and her family members were found to have been proved in the enquiry proceedings. The Labour Court found that the enquiry officer had rightly come to such a conclusion. The title dispute having ended in favour of the worker's husband, is of no relevance, since that does not confer any right on the worker to trespass into a property, covered then, by an injunction order and assault the occupants, of the disputed property, who were servants of the establishment who obtained such injunction.

8. The misconduct having been proved; being one of assault and abuse of other staff members of the management establishment, the gravity of offence was found to be not disproportionate to the punishment imposed. This Court does not find any

reason to interfere with the same.

The writ petition hence is found to be devoid of merit, would stand dismissed.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge