



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Judgment Reserved On : 14.12.2017

Judgment Pronounced On: 22.12.2017

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**THE HON'BLE MR.JUSTICE M.VENUGOPAL
and
THE HON'BLE MRS.JUSTICE R.THARANI**

**W.A. (MD) No.358 of 2011
in
W.P. (MD) No.8530 of 2007**

The Management,
Kamarajar District Co-operative Milk
Producers' Union Limited,
represented by its Managing Director,
Kumarasamyraja Nagar, Sattur Road,
Virudhunagar District.

... Appellant / Petitioner

vs.

1. The Presiding Officer,
Labour Court,
Madurai.

2. G.Shanmugavel
C/o. A.I.T.U.C.District Office,
Pallavakottai Road,
Virudhunagar,
Kamarajar District.

... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the letters patent
against the order dated 03.12.2010 made in W.P.(MD)No.8530 of
2007.

Prayer in WP(MD). 8530/ 2007 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorari, calling for the records on the file of the Labour
Court, Madurai, against the award of the Labour in I.D.No. 216 of
1994 dated 04/07/2007 and quash the same.

For Appellants : Mr.V.O.S.Kalaiselvam

For R2 : Mr.T.Ravichandran

**J U D G M E N T**

[Judgment of the Court was delivered by **M.VENUGOPAL, J.**]

The Appellant/Management has preferred the present intra Court Writ Appeal (as an aggrieved person) as against the order dated 03.12.2010 in W.P.(MD)No.8530 of 2007 passed by the Learned Single Judge.

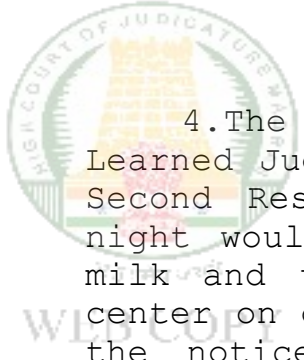
2.The Learned Single Judge while passing the impugned order in W.P.(MD)No.8530 of 2007 (Filed by the Appellant/Management) at paragraph No.5, had observed the following:-

"5. Records show, in the earlier round, when the matter came up from the Labour Court, this Court, at the instance of the present Writ Petitioner, by order dated 29.03.2007 in W.P.No.1547 of 2009 set aside the award of the Labour Court and remanded the matter back to the labour Court to give findings on the basis of the fresh evidence let in on the side of the 2nd Respondent herein along with the documents, which have been filed on the side of the petitioner Management. Only on remittal, the Labour Court held that the charges were not proved in the enquiry and thereby, allowed the claim petition by directing the petitioner Management to reinstate the 2nd Respondent with backwages and continuity of service.

As I have already held in paragraph 13 above, to a pointed question posted to the Learned Counsel for the petitioner Management to show, whether there was any direct evidence to substantiate the allegation of pouring sulfuric acid in the milk collected in the milk cane, the Learned Counsel for the petitioner Management was not able to answer in the affirmative. However, he represented that the 2nd Respondent has poured sulfuric acid only in the test tube. Again, it has to be seen that when the 2nd Respondent, as part of his job, is to use sulfuric acid to clean up test tube before conducting test of the milk, whether it is pure milk or added with water by the private milk vendor. Unless there is a specific and clear-cut evidence either oral or documentary, to prove their allegation that the 2nd Respondent has deliberately used sulfuric acid with milk collected in the milk cane, the charges levelled against the 2nd Respondent cannot be found proved."

and ultimately, dismissed the Writ Petition.

3.Assailing the correctness, validity and legality of the impugned order, dated 03.12.2010, in W.P.(MD)No.8530 of 2007, passed by the Learned Single Judge in dismissing the Writ Petition, the Appellant/Management (Writ Petitioner) has filed the instant Writ Appeal, by taking a plea that the Learned Single Judge had failed to consider the fact to the charge memo dated 12.07.1993 had not specifically refuted the charges that he had poured sulfuric acid in milk test tube.



4. The Learned Counsel for the Appellant takes a plea that the Learned Judge failed to appreciate the fact that the stand of the Second Respondent was that the milk tester worked on previous night would have poured acid in the test tube meant for testing milk and that in the previous night he was away from chilling center on duty. The Learned Counsel for the Appellant brings it to the notice of this Court that the Second Respondent had not refuted the evidence of Perumalsamy, Assistant Manger (Marketing) in the domestic enquiry, examined as third Respondent witness, who deposed that when questioned about how sulfuric acid came in the milk test tube, the Second Respondent had replied that for washing test tubes acid is poured, which was not cross examined by the Second Respondent. In this connection, it is the stand of the Appellant that the Second Respondent had not cross examined the said witness and had impliedly admitted that he had poured sulfuric acid in the milk test tube.

5. According to the Learned Counsel for the Appellant, the Learned Single Judge had failed to consider the fact that statement of the Second Respondent in the domestic enquiry that previous night shift tester would have poured the acid in the milk test tube is proved wrong, as per his own reply in the cross examination that he himself worked during previous night shift putting signature in the attendance register and that in his evidence he gave false statement by mistake. As such, there is no occasion for other persons to pour acid in the milk test tube.

6. The Learned Counsel for the Appellant points out that the Learned Judge failed to consider the fact that the Second Respondent himself had used milk test tube during previous night shift onwards by testing milk received from centers and therefore there is an occasion to pour sulfuric acid in the night shift and that the Second Respondent should have poured acid for testing milk during previous night shift.

7. The Learned Counsel for the Appellant submits that the Learned Judge failed to consider the important fact that the fourth witness in the domestic enquiry (Van Driver) had deposed that on earlier occasions also milk brought by him was spilled over as spoiled and on 01.04.1993 milk tested and found spoiled was subsequently found in good condition tested by some other person in the chilling center and hence, such act was done with a purpose for the reasons best known to the Second Respondent and this aspect was not cross examined by the Second Respondent.

8. The Learned Counsel for the Appellant strenuously projects an argument that the circumstantial evidence as well as evidence of Second Respondent prove that the Second Respondent poured acid in the milk test tube meant to test the milk received from the center. The Learned Counsel for the Appellant contends that interference of the First Respondent/Labour Court on the ground

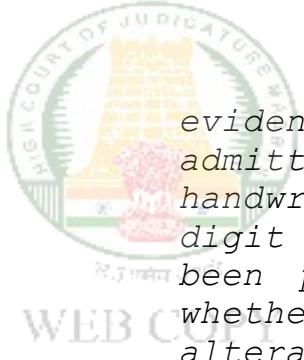
that lack of direct evidence is not proper because of the fact that ingredients of Indian Evidence Act, 1872, are not strictly applicable to the proceedings in a domestic enquiry and only the principles of 'All Fairness' are to apply. The Learned Counsel for the Appellant submits that in the instant case, there are possibilities that the employee might have committed misconduct and that is sufficient to hold that he is unfit to hold the post.

9. The Learned Counsel for the Appellant proceeds to point out that when there is sufficient evidence in the domestic enquiry to suggest that the Second Respondent had poured sulfuric acid in the test tube, the award of the Labour Court to the effect that there was no evidence to corroborate the charges is not a correct one. The Learned Counsel for the Appellant brings it to the notice of this Court that the First Respondent/Labour Court had committed an error of Law apparent on the fact of record and that the findings of the Tribunal are perverse. Furthermore, the charges levelled against the delinquent in the domestic enquiry need not be proved 'Beyond Reasonable Doubt' and proof of misconduct is enough and even 'Hearsay Evidence' and 'Circumstantial Evidence' are very much applicable.

10. The Learned Counsel for the Appellant contends that the Second Respondent had not raised any plea in his counter statement that he was not in gainful employment during the said period and as such, the Learned Single Judge should have held that in the absence of such pleadings, the award of the First Respondent/Labour Court for backwages is against the settled principles of Law and consequently, should have quashed the award of the Labour Court insofar as it pertains to 'Backwages'. The Learned Counsel for the Appellant vehemently points out that it is necessary for an employee to plead that he was not gainfully employed as on the date of his termination.

11. The Learned Counsel for the Appellant/Management in support of his plea that 'Hear Say Evidence' is admissible when it seeks to establish not the truth of the statement, but only the fact that it was made, reliance on the decision of the Hon'ble Supreme Court in **J.D.JAIN v. Management OF STATE BANK OF INDIA** reported in **(1982) 1 SCC 143**, wherein at special page Nos.148 and 149, at paragraph No.23, it is observed as under:-

"23. In the instant case, the alleged misconduct of the Appellant was that he forged documents, withdrew Rs. 1,500- Rs. 1,000 in excess of the amount he was authorised to do and misappropriated the excess amount of Rs. 1,000. With regard to the fact whether the Appellant manipulated the documents, withdrew excess amount and misappropriated it, there is, of course, no direct evidence of any eye witness except the Appellant's 'confession' referred to above. The evidence on which reliance has been taken by the Respondent is the confession and circumstantial



evidence, namely, the authority letter containing the admitted interpolations by the Appellant in his own handwriting in different ink, and the addition of the digit "I" before 500. The evidence of Kansal would have been primary and material, if the fact in issue were whether Kansal authorised the Appellant to make the alterations in the authority letter. But Kansal's complaint was to the contrary. For the purpose of a departmental enquiry complaint, certainly not frivolous, but substantiated by circumstantial evidence, is enough. What the Respondent sought to establish in the domestic enquiry was that Kansal had made a verbal complaint with regard to the withdrawal of excess money by the Appellant in presence of the four witnesses, namely, Wadhera, Gupta, Ramzan and Sarkar, aforesaid, against his advice. On the complaint of Kansal, the evidence of these four witnesses is direct as the complaint is said to have been made by Kansal in their presence and hearing; it is therefore, not hearsay. As the Respondent has succeeded in proving that a verbal complaint was made by Kansal on the evidence of the above-named four witnesses, the Respondent has succeeded. No rule of law enjoins that complaint has to be in writing as insisted by the Tribunal."

12. The Learned Counsel for the Appellant refers to the decision of the Hon'ble Supreme Court in **WORKMEN OF BALMADIES ESTATES v. MANAGEMENT, BALMADIES ESTATES** reported in **2009 (2) CTC 746**, wherein it is held that 'the Labour Court is empowered to, in appropriate cases, consider evidence considered by Domestic Tribunal and come to a different conclusion. Further, it is observed that Indian Evidence Act is not applicable to proceedings in domestic enquiry and that Principles of fairness, however, are to apply in domestic enquiries.'

13. The Learned Counsel for the Appellant cites the decision of the Hon'ble Supreme Court in **J.K.SYNTHETICS LTD v. K.P.AGRawal (S.C.)** reported in **2007 (112) FLR 1049** at special page No.1050, wherein it is observed as under:-

"The manner in which 'back-wages' is viewed, has undergone a significant change in the last two decades. They are no longer considered to be an automatic or natural consequence of reinstatement.

There has also been a noticeable shift in placing the burden of proof in regard to backwages.

Coming back to back-wages, even if the court finds it necessary to award back-wages, the question will be whether back-wages should be awarded fully or only partially (and if so the percentage). That depends upon the facts and circumstances of each case.

Therefore, it is necessary for the employee to plead



that he was not gainfully employed from the date of his termination. While an employee cannot be asked to prove the negative, he has to at least assert on oath that he was neither employed nor engaged in any gainful business or venture and that he did not have any income. Then the burden will shift to the employer. But there is, however, no obligation on the terminated employee to search for or secure alternative employment.

It, however, felt that the punishment of dismissal was not warranted and therefore, imposed a lesser punishment of withholding the two annual increments. In such circumstances, award of backwages was neither automatic nor consequential. In fact, backwages was not warranted at all."

14. Per contra, it is the submission of the Learned Counsel for the Second Respondent that in the present case, there was no direct evidence to arrive at a conclusion that the Second Respondent was guilty of the charges levelled against him and in this regard, the 'findings of the domestic enquiry' was rightly set aside by the First Respondent/Labour Court.

15. The Learned Counsel for the Second Respondent relies on the Judgment of the Hon'ble Supreme Court in **Civil Appeal No.6767 of 2013** (Arising out of SLP(C)No.6778 of 2012), **DEEPALI GUNDU SURWASE v. KRANTI JUNIOR ADHYAPAK MAHAVIDYALAYA (D.Ed.)**, wherein at paragraph No.33, it is observed as follows:-

"33. The propositions which can be culled out from the aforementioned judgments are:

i) In cases of wrongful termination of service, reinstatement with continuity of service and backwages is the normal rule.

ii) The aforesaid rule is subject to the rider that while deciding the issue of backwages, the adjudicating authority or the Court may take into consideration the length of service of the employee/workman, the nature of misconduct, if any, found proved against the employee/workman, the financial condition of the employer and similar other factors.

iii) Ordinarily, an employee or workman whose services are terminated and who is desirous of getting backwages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full backwages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of



service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.

iv) The cases in which the Labour Court/Industrial Tribunal exercises power under Section 11-A the Industrial Disputes Act, 1947 and finds that even though the enquiry held against the employee/workman is consistent with the rules of natural justice and / or certified standing orders, if any, but holds that the punishment was disproportionate to the misconduct found proved, then it will have the discretion not to award full backwages. However, if the Labour Court/Industrial Tribunal finds that the employee or workman is not at all guilty of any misconduct or that the employer had foisted a false charge, then there will be ample justification for award of full backwages.

v) The cases in which the competent Court or Tribunal finds that the employer has acted in gross violation of the statutory provisions and/or the principles of natural justice or is guilty of victimizing the employee or workman, then the concerned Court or Tribunal will be fully justified in directing payment of full backwages. In such cases, the superior Courts should not exercise power under Article 226 or 136 of the Constitution and interfere with the award passed by the Labour Court, etc., merely because there is a possibility of forming a different opinion on the entitlement of the employee/workman to get full backwages or the employer's obligation to pay the same. The Courts must always be kept in view that in the cases of wrongful / illegal termination of service, the wrongdoer is the employer and sufferer is the employee/workman and there is no justification to give premium to the employer of his wrongdoings by relieving him of the burden to pay to the employee/workman his dues in the form of full backwages.

vi) In a number of cases, the superior Courts have interfered with the award of the primary adjudicatory authority on the premise that finalization of litigation has taken long time ignoring that in majority of cases the parties are not responsible for such delays. Lack of infrastructure and manpower is the principal cause for delay in the disposal of cases. For this the litigants cannot be blamed or penalised. It would amount to grave

injustice to an employee or workman if he is denied backwages simply because there is long lapse of time between the termination of his service and finality given to the order of reinstatement. The Courts should bear in mind that in most of these cases, the employer is in an advantageous position vis-à-vis the employee or workman. He can avail the services of best legal brain for prolonging the agony of the sufferer, i.e., the employee or workman, who can ill afford the luxury of spending money on a lawyer with certain amount of fame. Therefore, in such cases it would be prudent to adopt the course suggested in Hindustan Tin Works Private Limited v. Employees of Hindustan Tin Works Private Limited (supra).

vii) The observation made in J.K. Synthetics Ltd. v. K.P. Agrawal (supra) that on reinstatement the employee/workman cannot claim continuity of service as of right is contrary to the ratio of the judgments of three Judge Benches referred to hereinabove and cannot be treated as good law. This part of the judgment is also against the very concept of reinstatement of an employee/workman."

16. It is to be pointed out that the present Appellant/Management on an earlier occasion while challenging the order of the First Respondent/Presiding Officer/Labour Court, Madurai, filed W.P.(MD)No.1547 of 1999, whereby and where under, this Court, on 29.03.2007 at paragraph Nos.7 to 9, had observed the following:-

"7. In the case on hand, from the judgment of the Labour Court, it could be seen that the validity of the action taken by the Management has not been scrutinised or adjudicated by it on the basis of the fresh evidence let in on the side of the Management. Hence, on this score alone, the order of the Labour Court, Madurai dated 30.07.1998 has to be set aside.

8. In the result, the order of the First Respondent dated 30.07.1998 is liable to be set aside and accordingly set aside. The matter is remitted back to the Presiding Officer, Labour Court, Madurai to give a finding with regard to the validity of the action taken by the Management on the basis of the fresh evidence which has been let in on the side of the petitioner along with the documents which have been filed on the side of the Management. Such process has to be done by the First Respondent within three months from the date of receipt of the copy of this order.

9. Mr. Parthiban, Learned Counsel appearing for the petitioner submitted that in pursuant to the orders of this Court at the time when the interim application was



taken up, the petitioner has deposited a sum of Rs.1,30,000/- and the same may be directed to be refunded. Since the matter has been remitted back to the Labour Court, I am not inclined to grant such orders."

17. On 04.07.2007, the First Respondent/Labour Court passed a fresh award in I.D.No.216 of 1994, whereby and where under, the Industrial Dispute was allowed and the Second Respondent/Employee was ordered to be reinstated with continuity of service, backwages and other benefits. In short, the First Respondent/Labour Court in its award on 04.07.2007 in I.D.No.216 of 1994, ultimately came to the conclusion that the charges levelled against the Second Respondent/Employee were not proved and accordingly, set aside the order of dismissal dated 08.02.1994.

18. A perusal of the award of the First Respondent/Labour Court, Madurai, dated 04.07.2007 in I.D.No.216 of 1994, unerringly points out that the witness-MW1 had not, in his evidence, made it clear to explain whether the test tube was in pure condition before buying the milk and further, when the Second Respondent (Petitioner in I.D.No.216 of 1994) was on duty, at that time, he called the machine operator Santhanam to boil the milk, but why the second respondent asked for the same, was not explained by MW-1.

19. Apart from the above, the Labour Court in its award at paragraph No.11 in I.D.No.216 of 1994 dated 04.07.2007 had categorically observed that the Second Respondent/Petitioner had not given the test tube for the purpose of testing the milk and it was not established that the Second Respondent/Employee was connected in regard to the allegation that in the test tube, there was acid and MW-1 (who conducted the examination of milk) and Santhanam purportedly examined the milk, both these persons had not acted with care and in the test tube already the liquid material was inside, which was not looked into by them and also they were not pored down and also not properly cleaned and over all liquid material, the milk was pored and the same was boiled and all these things were taken into account, would go to point out that deliberately with a view to make false acquisition against the Second Respondent/Employee, the incident had taken place and the information stated by the employee was found to be an acceptable one.

20. In short, the First Respondent/Labour Court, Madurai in I.D.No.216 of 1994 on 04.07.2007, had passed the award after full contest in the case and it came to a categorical conclusion that the charges levelled against the Second Respondent/Employee viz., that the Second Respondent with an intension to cause heavy loss to the institution, had made an attempt in this regard and also made an endeavour to bring disrepute to the institution and also gave wrong informations to cheat the Appellant/Management

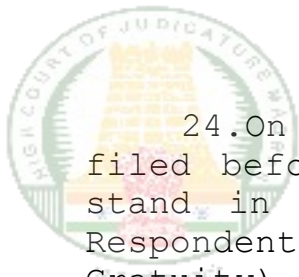


(Respondent in I.D.No.216 of 1994) and also caused prejudice to the trust of the people and that the charge that he had acted unilaterally were not proved and accordingly, set aside the dismissal order passed against the Second Respondent/Employee.

21. The Learned Counsel for the Appellant/Management points out that the Second Respondent/Employee's last drawn wages on the date of termination dated 08.02.1994 was Rs.1941 and that he was paid the Section 17-B, wages from September 2000 to March 2011 and in short, he was paid Section 17-B wages during the said period amounting to Rs.2,44,566/- and while filing W.P.(MD)No.1547 of 1999 by the Appellant/Management (as Writ Petitioner), as per the direction of this Court, Rs.1,30,000/- was deposited with the First Respondent/Labour Court, Madurai and that the Second Respondent/Employee was permitted to withdraw the interest and from September 2000 to March 2011 he received the interest of Rs.1,26,000/- and thereafter from April 2011 to March 2017, he is receiving the interest continuously.

22.The Learned Counsel for the Appellant also brings it to the notice of this Court that the Second Respondent/Employee was reinstated into his services from 01.04.2011 and continued to work and retired from his service on 31.08.2017. As such, he had received interest sum of Rs.45,600/- in between the period 01.04.2011 to 31.03.2017 even after his re-installment. In short, it is the plea of the Appellant that the Second Respondent/Employee had not received wages only from 08.02.1994 to August 2000 (i.e.) for the period of 6 years and 5 months and the salary to be paid to him comes to Rs.1,49,457/-. However, it is the stand of the Appellant that the Second Respondent/Employee had received Rs.45,600/- in respect of the period of his employment as interest, though he is not entitled to get interest out of deposit to this period. After adjusting, the back-wages from 08.02.1994 to 01.08.2000 works out to Rs.93,857/-. Further, the deposited amount of Rs.1,30,000/- is lying over at the State Bank of India with accrued interest from 01.04.2017 and that apart, it is the permanent stand of the Appellant/Management that the Second Respondent/Employee had not pleaded in his petition filed before the Labour Court and thereafter that he was not gainfully employed elsewhere during the period of non-employment and therefore, he is not entitled to receive wages from 08.02.1994 to 01.08.2000.

23.Conversely, it is the submission of the Learned Counsel for the Second Respondent/Employee that the wages paid under Section 17-B of the Industrial Disputes Act, 1947, till 01.04.2011 comes to Rs.2,44,556 and the Interest on deposit paid only till 2011 (From 7/2001 to 1/2011) comes to Rs.89,908/-, and the balance backwages to be paid is Rs.7,26,437/- and the attendant benefit (Dearness Allowance) on these services Rs.53,017/- and Gratuity 11230/26X15X36 works out to Rs.2,33,238.46 and in short, the total sum to be paid to the Second Respondent is Rs.10,12,692/-.



24. On either side, a calculation memo dated 05.12.2017 was filed before this Court and respective parties take a divergent stand in regard to the due amount to be paid to the Second Respondent/Employee in respect of backwages + Attendant Benefits + Gratuity).

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25. A perusal of the charge memo dated 22.06.1993, in respect of the Second Respondent/Employee shows that on 11.06.1993, when the milk collection vehicle in Virudhunagar, M.Rediapatti, came late to examine in the milk cans whether there was any spoiled milk, he put in a pre-arranged fashion in the test tubes, the sulfuric acid in small quantity and as a result of which, he had made an attempt to cause heavy loss to the Contractor and also made an attempt to bring disrepute to the Institution. The second charge levelled against the Second Respondent/Employee was that on the date of occurrence, when the Assistant Manager (Sales) was in-charge duty, he questioned about the aforesaid conduct of the Second Respondent and that he gave a false information stating that to clean the test tube, he put the sulfuric acid in the test tube and made an attempt to desal the Institution and also caused prejudice to the general public's trust. The third charge levelled against the Second Respondent/Employee is that he had acted unilaterally by following his duties and job.

26. The Second Respondent/Employee submitted his explanation on 12.07.1993 denying the allegations as false and prayed for removal of his temporary suspension. On 19.07.1993, the Second Respondent/Employee was issued with a memo whereby he was given a copy of the complaint and also that he was given 15 days time to submit his explanation. On 26.07.1993, the Second Respondent/Employee submitted his explanation whereby and where under, he had stated that instead of taking action against the milk examiners, taking action against him, is not proper. On 21.09.1993, the Second Respondent/Employee was informed that a domestic enquiry would be conducted by the officer concerned on 05.10.1993 at 3.30 p.m. at Kamarajar District Co-operative Milk Producers Union, Virudhunagar. After the 'Conduct of Enquiry', the enquiry officer submitted his findings on 29.11.1993, whereby and where under, the charges levelled against him were held to be proved. On 15.12.1993, the Second Respondent/Employee was given the second show cause notice, for which, he submitted his explanation on 23.12.1993. On 08.02.1994, an order of dismissal from service was passed against the Second Respondent/Employee.

27. As far as the present case is concerned, to prove the charges/allegations on pouring sulfuric acid in the test tube for the purpose of spoiling the milk with a wrong intention to incur loss to the Contractor of M.Rediapatti route, there is no direct evidence as to who had witnessed at the time when the Second Respondent poured Sulfuric acid in the test tube, at the time of mixing with milk.



28.It is to be seen that the Second Respondent had deposed before the First Respondent/Labour Court, Madurai and also in the domestic enquiry that he poured Sulfuric acid kept in the laboratory only to clean the test tube, but not for mixing up with milk to cause loss to anyone including the Contractor of M.Rediapatti route.

29.Be that as it may, on a careful consideration of respective contentions and also this Court, on an over all consideration of the relevant attendant facts and circumstances of the instant case, in a cumulative manner, comes to an inescapable conclusion that the charges levelled against the Second Respondent/Employee were not proved and in this regard, the findings of the First Respondent/Labour Court, Madurai, do not suffer from material irregularities and patent illegalities in the eye of Law. Viewed in that perspective, the award passed by the First Respondent/Labour Court in directing the Appellant/Management to reinstate the Second Respondent/Employee with backwages and continuity of service is free from any legal flaw. The Appellant/Management is directed to pay the outstanding due amount (arriving at the exact amount due to be paid to the Second Respondent/Employee, after taking into account of the calculation memo of arrears to be paid, dated 15.12.2017 of the Second Respondent/Employee), to be paid to the Second Respondent/Employee in entirety, within a period of four weeks from the date of receipt of a copy of this order, failing which, it is open to the Second Respondent/Employee to initiate further proceedings, ofcourse, in the manner known to Law and in accordance with Law. Consequently, the Writ Appeal fails.

30.In the result, the Writ Appeal is dismissed leaving the parties to bear their own costs. The order of the Learned Single Judge, dated 03.12.2010 in W.P.(MD)No.8530 of 2007, is affirmed by this Court for the reasons assigned in this Appeal.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

The Presiding Officer,
Labour Court, Madurai.

+ 1 cc TO Mr.V.O.S.Kalaiselvam , Advocate in SR No. 94876

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