

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.155 of 2016

S.Aruchamy Appellant/1st Respondent

versus

1. Sri Navendraraja Textiles Ltd.,
Vadugapakkam,
Palladam 641 664.1st Respondent/Petitioner
2. The Presiding Officer,
Labour Court,
Coimbatore.2nd Respondent/2nd Respondent

Appeal filed against the order passed by this Court dated 12.07.2006 passed in W.P.No. 4874 of 1998.

W.P.4874/98:

Pleaded to issue a Writ of certiorari, or order or direction in the nature of writ and to call for the records pertaining to the award passed by the 2nd respondent Labour court, coimbatore in I.D. No. 132/1996 dated 27.01.1998 and to quash the same in so far as interference made by the 2nd respondent with the punishment of dismissal of the 1st respondent.

For Appellant : Mr. G.Obalapathi
for Mr. P.Saravanan

For Respondents : Mr.G.Anand
for M/s.T.S.Gopalan & Co for R1

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

The challenge in this intra Court Appeal is to the order of the learned Single Judge made in WP No.4874 of 1998, in and by which, the Writ Petition filed by the 1st respondent Management was allowed, setting aside the award of the Labour Court made in

ID No.132 of 1996 dated 27.01.1998. By the said award, the Labour Court had interfered with the punishment imposed on the workmen on the ground that the punishment of dismissal from service is disproportionate to the proved delinquencies on the part of the workman.

2. The respondent was working as sider in the respondent Mills from 08.08.1977. He has also acting as a General Representative in a Trade Union called as Hindu Mazdoor Sangam. During the course of his employment, the Management charged him with delinquencies of go slow and also unauthorized entry in the Supervisor's room in the absence of the Supervisor and inspecting the files maintained by the Supervisor. A Departmental Enquiry was conducted after issue a show cause notice and the Enquiry Officer found that the delinquent employee was guilty of the charges. Accepting the report of the Enquiry Officer, the Management issued a second show cause notice on 15.11.1994. The employee submitted his explanation for a second show cause notice on 23.11.1994. Inasmuch as the explanation was found to unsatisfactory, the Management by its order dated 31.12.1995 imposed the punishment of removal from service on the employee.

3. Aggrieved the employee moved the Labour Court by way of ID No.132 of 1996. The Labour Court, by its interim order dated 04.11.1997 held that the enquiry was fair and proper and thereafter, heard the Industrial Dispute under Section 11(A) of the Act. On reappraisal of the evidence adduced before the enquiry officer, the Labour Court concluded that the findings of the Enquiry officer cannot be termed as perverse and approved the said findings. The Labour Court also held that all the three charges were proved, however, the Labour Court concluded that misconducts are not serious enough to attract the punishment from removal from service, modified the punishment into one of reinstatement with continuity of service with 50% back wages.

4. Aggrieved, the Management approached this Court, by way of filing the Writ Petition in WP No.4874 of 1998. The main contention of the Management before the Writ Court was that the award of the Labour Court setting aside the punishment of dismissal was wholly without jurisdiction and having held that the Management cannot be expected to ignore and bare with misconducts of the workman, the Labour Court was not justified and setting aside the punishment of dismissal and directing reinstatement with 50% of back wages.

5. The learned Single Judge, who heard the Writ Petition,

after taking note of the findings of the Labour Court Concluded that the Labour Court was not right in going into the proportionality of punishment, the learned Single Judge had also referred to the decisions of the Hon'ble Supreme Court in Bharat Rege Co Ltd. v. Uttam Manohar Nakate, reported in 2005 (2) SCC 489; V.Ramana v. A.P.SRTC, reported in 2005 (7) SCC 338; Hombe Gowda Educational Trust v. State of Karnataka, reported in 2006 (1) SCC 430 and Maharashtra State Seeds Corporation Ltd. v. Haridas & Another, reported in AIR 2006 SCC 1480. A Division Bench judgment of this Court in Engine Valves Ltd., v. Labour Court, Madras & Another, reported in 1991 (1) LLJ 372, was also referred to by the learned Single Judge. Taking note of the principles laid down in the aforesaid judgments, the learned Single Judge concluded that the action of the Labour Court in interfering with the punishment of dismissal cannot be justified. It is also the conclusion of the learned Single Judge, the punishment is not shockingly disproportionate when compared to the nature of the delinquencies. In the light of the said findings, the learned Single Judge allowed the Writ Petition setting aside the award of the Labour Court.

6. During the pendency of the Writ Petition, the Management was directed to deposit a sum of Rs.2,00,000/- to the credit of ID No.132 of 1996 on such deposit, the 1st respondent was permitted to withdraw a sum of Rs.50,000/-, the Management was also directed to pay the 17(b) wages. The learned Single Judge while passing the final orders in the Writ Petition directed the Management not to recover a sum of Rs.50,000/- also. It is against this order of the learned Single Judge, the workman had come forward with the above Appeal.

7. We have heard Mr.G.Obalapathi, learned counsel appearing for Mr.P.Saravannan, learned counsel for the appellant and Mr.G.Anand, learned counsel appearing for Mr.T.S.Gopalan & Co. for the 1st respondent. सत्यमेव जयते

8. The learned counsel appearing for the appellant would contend that the Labour Court was justified in interfering with the above order on the ground of proportionality of punishment. It is his further contention that the charges are not very serious in nature and therefore, the punishment of removal from service was in fact really disproportionate to the delinquencies.

9. Per contra Mr.G.Anand, learned counsel appearing for the 1st respondent Management would contend that insofar as the question of proportionality of punishment is concerned, the

Labour Court is empowered to interfere with the same, the records of finding that the punishment is shockingly disproportionate to the delinquencies committed. Drawing our attention to the findings of the Labour Court, wherein the Labour Court had held as follows:

".... it is not out of place to mention that these types of misconduct should not be allowed to continue in industry which would be a hindrance to progress in industrial peace and affect the discipline among the Workers"

10. Mr. Anand, would contend that the Labour Court was not justified in interfering with the punishment on the ground of disproportionality. He would also contend that in the light of the law declared by the Hon'ble Supreme Court in the decisions relied on by the learned Single Judge it cannot be said at the Labour Court was right in interfering with the quantum of punishment. It is also brought to our notice that the 1st respondent Mill had been closed even in the year 2011 and there is no possibility of the appellant being reinstated.

11. We have considered the rival submissions. The law regarding the power of the Labour Court interfere with the punishment on the ground that it is disproportionate to the proved delinquencies is well settled. The Hon'ble Supreme Court and this Court have consistently held that such power cannot be exercised on irrational or arbitrary or on compassionate grounds. In fact in *V. Ramana v. A.P. SRTC*, reported in 2005 (7) SCC 338, the Hon'ble Supreme Court held that the Court should not interfere with the administrator's decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the Court, in the sense that it was in defiance of logic or moral standards.

12. In view the aforesaid law declared by the Hon'ble Supreme Court and followed by this Court, we are of the considered opinion that the Labour Court was not justified in interfering with the punishment on the ground of disproportionality. Once the charges are proved and it is found that retaining such workman will affect industrial peace and discipline, the Labour Court had no power to go into the question of proportionality punishment. We are therefore of the considered opinion that the learned Single Judge was perfectly justified in setting aside the award directing reinstatement. It is also stated that the balance amount of Rs.1,50,000/- which had swelled to Rs.2,58,000/- with interest having accrued was also withdrawn by the workmen, during the pendency of this Writ

Appeal.

13. For the foregoing reasons, we see no merit in the Appeal, the appeal is accordingly dismissed. We however make it clear that if any amount lies in the deposit of the Labour Court, the workman will be entitled to withdraw the same. However, in the circumstances, there will be no order as to costs.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

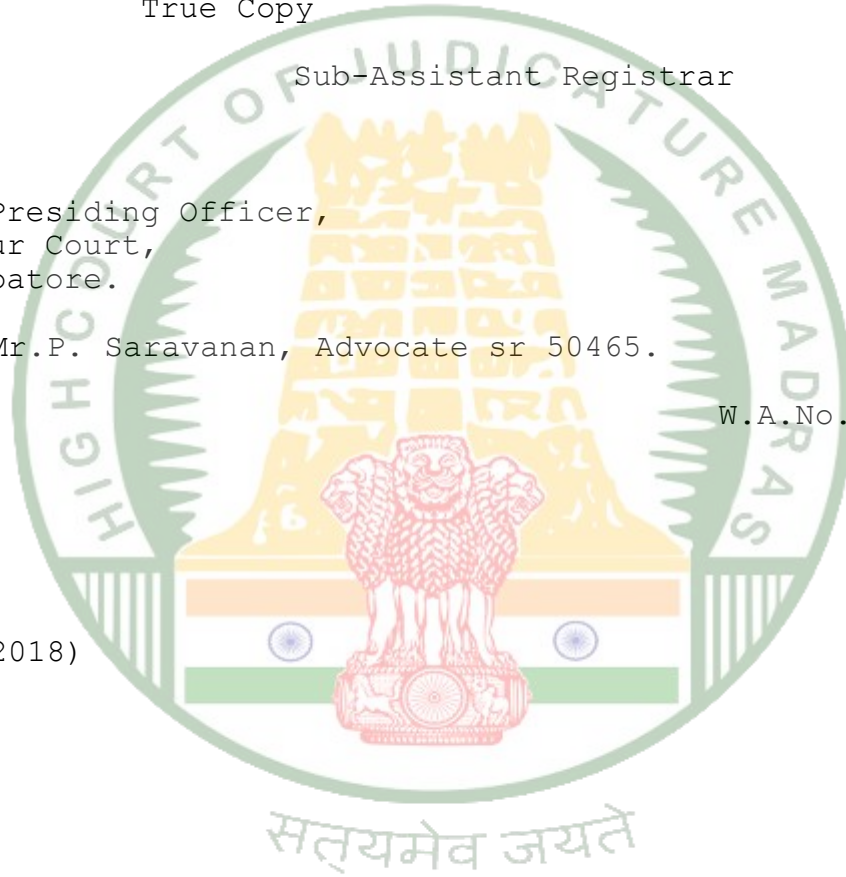
jv
To

The Presiding Officer,
Labour Court,
Coimbatore.

+1 CC to Mr.P. Saravanan, Advocate sr 50465.

W.A.No.155 of 2016

SP(04/09/2018)



WEB COPY