



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.22799 of 2016

and

W.M.P.(MD) No.16306 of 2016

The Management,
Madura Coats Private Limited,
Beech Road,
Tuticorin - 628 001,
represented by its Manager-Legal ...Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.J.Anton Subash ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st Respondent in I.D.No.89 of 2015 and quash its award dated 07.11.2016.

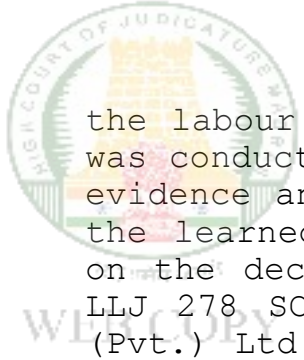
For Petitioner : Mr.T.Ravichandran
R1 : Labour Court
For R2 : Mr.M.Sahul Hameed

O R D E R

The second respondent herein was employed in the Madura Coats Private Ltd., as Learner. Alleging that the second respondent indulged in an act of assault, he was dismissed from service. The second respondent raised an industrial dispute in I.D.No.89 of 2015 before the Labour Court, Tirunelveli. During the course of the said proceedings, the second respondent filed I.A.No.325 of 2016 for admitting certain additional documents. Particularly, FIR lodged at the instance of his Superior namely, Selvaraman. The management / writ petitioner herein opposed the same. The labour Court allowed the said I.A. and permitted the second respondent herein to mark the said FIR. Thereafter, the labour Court allowed the said I.D., and set aside the order of dismissal dated 28.03.2013 and directed the management to reinstate the second respondent with continuity of service and also backwages. This award dated 07.11.2016 is challenged in this writ petition.

2.Heard the learned senior counsel for the writ petitioner and the learned counsel for the second respondent.

3.The learned senior counsel appearing for the management confined his contention to only one point. His submission is that



the labour Court has recorded the finding that the domestic enquiry was conducted fairly and properly. The question of adducing further evidence and arguments would not thereafter arise. In this regard, the learned senior counsel for the writ petitioner placed reliance on the decision of the Hon'ble Supreme Court reported in (1973) 1 LLJ 278 SC (The workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd., Vs. The Management and others). In Para No.59 of the said judgment, while considering Section 11 of the Industrial Disputes Act, 1947 has held as follows:

"59. The proviso only emphasizes that the Tribunal has to satisfy itself one way or other regarding misconduct, the punishment and the relief to be granted to workmen only on the basis of the materials on record before it. What those materials comprise of have been mentioned earlier. The Tribunal, for the purposes referred to above, cannot call for further or fresh evidence, as an appellate authority may normally do under a particular statute, when considering the correctness or otherwise of an order passed by a subordinate body. The matter in the Proviso refers to the order of discharge or dismissal that is being considered by the Tribunal."

4. This Court is of the view that the labour Court erred in allowing the I.A. No.325 of 2016 filed by the second respondent herein. Therefore, the impugned award is set aside. Since the labour Court award is set aside, the matter is necessarily remitted to file of the Labour Court for fresh consideration in accordance with law. The labour Court, Tirunelveli is directed to dispose the matter within the period of three weeks from the date of receipt of a copy of this order.

5. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS-I)

To
The Presiding Officer,
Labour Court,
Tirunelveli.

+1cc to M/S.T.Ravichandran, Advocate SR.No. 59128

W.P. (MD) No.22799 of 2016
28.03.2018

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