

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.10.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.31144 & 6187 of 2005
&
W.M.P.No.34122 of 2005 & 89 of 2013

J.K.K.Textiles Processing
Mills Pvt., Ltd.,
Pudhur Perumapalayam,
Kumara Palayam,
Namakkal District.

...Petitioner in W.P.No.31144 of 2005

K.Madheswaran

...Petitioner in W.P.No.6187 of 2005

..Vs..

1.The Presiding Officer,
Labour Court, Salem.

2.K.Madheswaran ...Respondents in W.P.No.31144 of 2005

1.The Management of J.K.K Textiles
Processing Mills Pvt., Ltd.,
rep by its Manager,
Pudhur Palayam,
Kumara Palayam,
Namakkal District.

2.The Presiding Officer,
Labour Court,
Salem.

...Respondents in W.P.No.6187 of 2005

Prayer in W.P.No.31144 of 2005: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records in I.D.No.1010 of 1998 on the file of Labour Court, Salem the first respondent herein and quash the impugned order dated 18.02.2004 through which the Labour Court has directed the payment of Rs.10,000/- by way of ex-gratia along with interest at 6% to the second respondent employee.

Prayer in W.P.No.6187 of 2005: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records connected with award in I.D.No.1010 of 1998, dated 18.02.2004 on the file of Labour Court, Salem the second respondent herein and quash the same and also direct the first respondent management to reinstate the petitioner with full backwaes and continuity of service.

For Petitioner : Mr.M.R.Raghavan
(in W.P.No.31144/05)
Mrs.S.Girija
(in W.P.No.6187/05)

For Respondents : Mrs.S.Girija (for R.2)
(in W.P.No.31144/05)
Mr.M.R.Raghavan (for R.1)
(in W.P.No.6187/05)

:R1 - Labour Court
(in WP.No.31144/05)
R2 - Labour Court
(in WP.No.6187/05)

COMMON ORDER

The award dated 18.02.2004 passed in I.D.No.1010 of 1998 is under challenge in the present writ petition.

2.The writ petitioner is the Management of J.K.K.Textiles Processing Mills Pvt., Ltd. The second respondent was employed in the petitioner mill as an operator on 23.04.1997. The second respondent employee assaulted the supervisor more specifically under the influence of alcohol and also threatened the said supervisor. The offense was committed by the workman during the working hours. Consequently, the second respondent/workman was placed under suspension on 24.04.1997 and a charge sheet was issued on 05.05.1997. The second respondent had not submitted any acceptable explanations and thereafter a domestic enquiry was ordered. The Enquiry Officer conducted the enquiry by affording an opportunity to the workman as well as to the parties concerned and submitted his report holding that the charges against the second respondent/ workman were proved. Based on the findings of Enquiry Officer, a second show cause notice was issued on 29.07.1997 to the second respondent. Having not satisfied with the explanations, the management issued an order of dismissal from service on 18.10.1997. The second respondent raised an Industrial Dispute in I.D.No.1010 of 1998 before the Labour Court. The Labour Court recorded the fact that the second respondent had not questioned the procedures adopted during the course of domestic enquiry.

3.The learned counsel appearing on behalf of the petitioner management reiterated by stating that in the categorical findings, the labour Court held that there was no defect in the domestic enquiry, the workman has also not raised any objection regarding the conduct of domestic enquiry. The principles of natural justice has been complied with and an opportunity was provided. This apart, the Labour Court made a categorical finding that the Supervisor was attacked by the second respondent/workman in an inebriated mood. The Labour Court in paragraph 10 of the award made a finding that the misbehavior and the misconduct of the workman was serious in nature. Further the second respondent/workman attacked the Supervisor Mr.Jagannathan through log-wood and the Supervisor sustained from injuries and the medical certificates were also filed as documents before the Labour Court. Attacking a Supervisor is a serious misconduct and a lenient cannot be taken. While finding all these facts established by way of an evidence, the Labour Court finally passed an award stating that second respondent was working for about 17 years and therefore, the compensation amount of Rs.10,000/- is granted.

4.This Court is of the opinion that in respect of such proved grave misconduct, Courts cannot show any leniency or misplaced sympathy, in the event of granting such sympathy in such heinous offenses in the work place, the same will show wrong message and an industrial discipline will be affected. In the present case on hand, the second respondent/workman attacked the Supervisor with log-wood and caused serious injury. He was admitted in the hospital. Even before the Labour Court, the workman had not raised any objection regarding the fairness of the domestic enquiry. The Labour Court also found that the charges against the second respondent are proved. When the serious and grave misconducts were proved, there is no reason whatsoever to award compensation. The Labour Court cannot show any misplaced sympathy merely on the ground that the employee was serving for a considerable length of time. Mere service would not save the gravity of the misconduct committed and proved. This being the principles followed, the Labour Court has awarded the compensation in contrary to the findings arrived at, based on the documents and evidences.

5.It is pertinent to note that the Labour Court found that the punishment of dismissal from service is the proper punishment imposed. There is no dis-proportionality in respect of the quantum of punishment imposed. When such being the findings, the Labour Court has exceeded in its powers by granting compensation by invoking Section 11A of Industrial Disputes Act. The power of discretion should be exercised cautiously while ascertaining the gravity as well as the dis-

proportionality of the punishment imposed. A mere length of service would not be a ground to view the proved misconduct which is grave in nature. Thus, the power of discretion has not been exercised properly by the Labour Court. In all such cases, grant of compensation cannot be a routine affair and only in just and proper cases, Labour Court has to award compensation and not otherwise. In respect of proved misconducts, which are of grave in nature, compensation cannot be awarded. Once, the Labour Court found that the compensation is in commensuration with the gravity of the proved charges, there is no reason whatsoever to grant compensation to the workman.

6.This being the principles to be followed, the award of the Labour Court is perverse and not inconsonance with the established principles of law. Accordingly, the award dated 18.02.2004 passed in I.D.No.1010 of 1998 is hereby quashed and the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

7.In view of the award dated 18.02.2004 passed in I.D.No.1010 of 1998 is quashed and W.P.No.31144 of 2005 is allowed, the writ petition filed by the workman in W.P.No.6187 of 2005 stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

mrm

To
The Presiding Officer,
Labour Court,
Salem.

+1cc to Mr.M.R.Raghavan, Advocate, SR.No.86352.
+1cc to M/s.S.Girija, Advocate, SR.No.86134.

W.P.No.31144 & 6187 of 2005

NR (CO)
CSR(10/12/2019)