

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.503 of 2011

The Management of  
Premier Instruments and Controls Ltd.,  
Post Box No.4209,  
Periyanaickenpalayam  
Coimbatore 641 020 rep. By its  
Vice President - HR

.. Petitioner

Vs.

1. The Presiding Officer,  
Labour Court,  
Coimbatore.

2. K.Sasikala

.. Respondents

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 1<sup>st</sup> respondent in I.D.No.375 of 2003 and quash its award dated 09.06.2010 in so far as it granted a compensation of Rs.1,50,000/- to the 2<sup>nd</sup> respondent.

For Petitioner : Mr.Anand Gopalan  
for M/s.T.S.Gopalan and Co.

For R1 : Court

For R2 : No appearance

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O R D E R

The present Writ Petition is filed for issuance of a Writ of Certiorari, calling for the records of the 1<sup>st</sup> respondent in I.D.No.375 of 2003 and quash its award dated 09.06.2010 in so far as it granted a compensation of Rs.1,50,000/- to the 2<sup>nd</sup> respondent.

2.The petitioner is engaged in the manufacture of dashboard

instruments and auto ancillary parts. The 2<sup>nd</sup> respondent joined the service of the petitioner on 01.07.1989 and was working as an operator in the petitioner's factory during the year 2002. Her job is crucial for the manufacturing activity in the petitioner's factory. From 1998 onwards, the 2<sup>nd</sup> respondent was frequently absenting from work. The petitioner initiated disciplinary proceedings against the 2<sup>nd</sup> respondent and punishment of warning and suspension were imposed on her. In spite of the same, she continued to absent herself.

3. From 05.11.2002, she absented from work without any intimation. The petitioner issued a show cause notice dated 15.11.2002. The 2<sup>nd</sup> respondent avoided receiving the said show cause notice and continued to remain absent from 16.11.2002 to 26.11.2002. The petitioner once again issued show cause notice on 26.11.2002, enclosing the earlier show cause notice dated 15.11.2002. The 2<sup>nd</sup> respondent submitted her explanation. Not being satisfied with the explanation submitted by the 2<sup>nd</sup> respondent, an Enquiry Officer was appointed to conduct domestic enquiry. The 2<sup>nd</sup> respondent participated in the domestic enquiry and cross-examined the witnesses examined by the petitioner and submitted her statement to the Enquiry Officer. The Enquiry Officer submitted his report on 25.12.2002, holding that the charges leveled against the petitioner were proved. The second show cause notice was issued to the 2<sup>nd</sup> respondent, proposing punishment of dismissal. The 2<sup>nd</sup> respondent on 27.01.2003 submitted her explanation. The explanation submitted by the 2<sup>nd</sup> respondent was not satisfactory and the petitioner by the order dated 10.02.2003, dismissed the 2<sup>nd</sup> respondent from service.

4. The 2<sup>nd</sup> respondent raised Industrial Dispute in I.D.No.375 of 2003 before the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent by the award dated 09.06.2010, held that finding of the Enquiry Officer was valid in law and 2<sup>nd</sup> respondent has committed misconduct of absence on earlier occasions and that the 2<sup>nd</sup> respondent is not entitled for reinstatement and directed the petitioner to pay a sum of Rs.1,50,000/- as compensation to the 2<sup>nd</sup> respondent. Challenging the said award granting compensation of Rs.1,50,000/- to the 2<sup>nd</sup> respondent, the petitioner has come out with the present Writ Petition.

5. The learned counsel appearing for the petitioner contended that the petitioner is carrying out manufacturing process and work done by the 2<sup>nd</sup> respondent is crucial for manufacturing and her absence without prior intimation affects the manufacturing process of the petitioner. The 2<sup>nd</sup> respondent is habitual absentee without prior intimation. The 1<sup>st</sup> respondent having held that domestic enquiry conducted by the petitioner was valid in law and 2<sup>nd</sup> respondent has committed misconduct, ought to have dismissed the Industrial Dispute. The 1<sup>st</sup> respondent has taken

lenient view and granted compensation as the 2<sup>nd</sup> respondent is a women and she has 21 years of further service. This consideration is irrelevant and 1<sup>st</sup> respondent has erred in awarding Rs.1,50,000/- as compensation to the 2<sup>nd</sup> respondent and prayed to quash the award of the 1<sup>st</sup> respondent.

6. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though the 2<sup>nd</sup> respondent entered appearance through counsel, when the matter is taken up for hearing, there was no representation for the 2<sup>nd</sup> respondent.

7. The petitioner has contended that the 2<sup>nd</sup> respondent was working as an operator and her job is to operate the SPM - Special Purpose Machine which is crucial for the manufacturing activities in the petitioner's factory. The petitioner failed to prove that the 2<sup>nd</sup> respondent was in the habit of absenting herself without prior intimation and punishment of warning and suspension was imposed on earlier occasion for the similar misconduct. The 2<sup>nd</sup> respondent absented herself from 05.11.2002. The 2<sup>nd</sup> respondent has submitted explanation after 2<sup>nd</sup> show cause notice only and leave letter with medical certificate was received by the petitioner only on 18.11.2002, after the issue of second show cause notice. The 2<sup>nd</sup> respondent participated in the enquiry and cross-examined the witnesses examined by the petitioner. The 1<sup>st</sup> respondent considering all the above materials, held that the enquiry conducted by the petitioner is fair and proper and 2<sup>nd</sup> respondent has committed misconduct as per Clause 21 (6) of the standing orders of the petitioner, marked as Ex.M24. The 1<sup>st</sup> respondent extracting the said Clause, held that the 2<sup>nd</sup> respondent has committed misconduct. Considering the fact that due to similar misconduct committed by the 2<sup>nd</sup> respondent on earlier occasions and there is strained relationship between the petitioner and the 2<sup>nd</sup> respondent, the 1<sup>st</sup> respondent awarded compensation instead of ordering reinstatement, after holding that even though the termination is an excessive punishment to the proved misconduct, she is not entitled for reinstatement in service. The 1<sup>st</sup> respondent taking into consideration the year of service put in by the 2<sup>nd</sup> respondent, awarded a sum of Rs.1,50,000/- as compensation. The contention of the learned counsel for the petitioner that the 1<sup>st</sup> respondent has taken lenient view and on irrelevant reason has awarded compensation instead of dismissing the I.D is without merits. The petitioner has terminated the service of the 2<sup>nd</sup> respondent for unauthorized absent. The said punishment is disproportionate to proved misconduct. The 1<sup>st</sup> respondent considering the past services rendered by the 2<sup>nd</sup> respondent as well as the further period of 21 years of service the 2<sup>nd</sup> respondent had, but for termination, awarded a sum of Rs.1,50,000/- as compensation as there was a strained

relationship between the petitioner and the 2<sup>nd</sup> respondent. Considering the entire materials on record and contention of the learned counsel for the petitioner, the amount of Rs.1,50,000/- awarded by the Tribunal as compensation in lieu of reinstatement is excessive. The compensation of Rs.1,50,000/- is reduced to Rs.1,00,000/-.

8.With the above modification, this Writ Petition is partly allowed. No costs.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa

To

The Presiding Officer,  
Labour Court,  
Coimbatore.

+1cc to M/s.T.S.Gopalan and Co., Advocate, S.R.No.50447

W.P.No.503 of 2011

SPD(CO)  
CS/07/08/2019



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