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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.8585 of 2006

1. The Managing Director,
TANSI, Guindy,
Chennai 32.
2. The Secretary and Chief Administrative Officer,
(now re-designated as General Manager),
TANSI, Guindy,
Chennai 600 032.
3. The Superintendent,
TANSI Electrical Works,
Guindy, Chennai - 32. ... Petitioners
(now defunct)

Vs.

1. The Presiding Officer,
II Additional Labour Court,
Chennai.
2. M.Palayam ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the 1st Respondent in I.D.No.669 of 1997 on his file and quash the Award made therein dated 28.07.2005 directing the reinstatement of the 2nd Respondent in service.

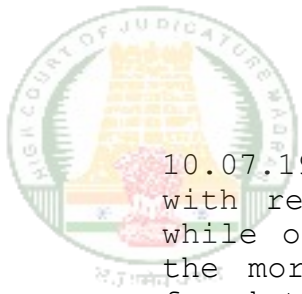
For Petitioners : Mr.R.Dasaratha Rao

For 2nd Respondent : Mrs.A.Karthika Ashok

O R D E R

Petitioner/Management has come up with this Writ Petition challenging the Award dated 28.07.2005 passed by the 1st Respondent/Labour Court in I.D.No.669 of 1997.

2. It is seen that, the 2nd Respondent/employee was working as Watch and Ward in TANSI between 13.07.1990 and



10.07.1994 and he was suspended from service on 11.07.1994 F.N. with regard to commission of theft in the Unit on 09.07.1994, while on duty during night hours. When the Unit was opened in the morning on 11.07.1994 (Monday), the lock of the Unit was found to be tampered with and it was found that, copper scraps weighing about 23.5 kgs valued at Rs.2,350/- were stolen from the premises of the Unit.

3. The 2nd Respondent/employee admitted his guilt on 11.07.1994, and thereupon, he was suspended from duty with effect from 11.07.1994 F.N. Accordingly, a Charge Memo dated 15.07.1994 was issued to him. Even assuming that, admission of guilt cannot be taken note of, while replying to the Charge Memo, there is no need for the employee to accept the guilt by sending his reply on 17.12.1994 to the Show Cause Notice asking the employee to submit a reply to the Enquiry findings.

4. The Labour Court held that, the 2nd Respondent/employee has admitted commission of theft of the bag containing copper scraps. Past records of the 2nd Respondent/employee, who was cross-examined as W.W.1 before the Labour Court reveal that, he was suspended twice. Even if the past conduct is good, one serious misconduct is suffice, warranting extreme punishment. It is further held by the Labour Court that, apart from admission of guilt by the employee, there is corroborative evidence to show that, the charge of theft by the employee has been proved. The Labour Court, while observing that, there is absolutely nothing on record on the part of the Petitioner/Management to show that, the past records of the employee have been considered before slapping the capital punishment of dismissal from service causing economic death, interfered with the punishment imposed on the 2nd Respondent/employee and directed the Management to reinstate him in service without backwages and without all other attendant benefits.

5. When the 2nd Respondent/employee has admitted the charge alleged against him, in the enquiry, moreso after the Show Cause Notice calling upon to explain about the Enquiry findings, and when the Labour Court has held that, the charges are proved, it ought not to have interfered with the punishment imposed by the employer. It is no doubt true that, the powers of the Labour Court are very wide and it can impose a lesser punishment. The value of theft committed by the employee to the tune of Rs.2,350/- appears to be meagre as on date. But, undoubtedly, it was a huge amount in the year 1994.

6. The Labour Court, having found that, the charges against the employee are proved, ought not to have awarded reinstatement, as it would amount to giving premium for the



offence of theft. Hence, I find that, the Award of the Labour Court suffers from perversity, moreso, when the employee has admitted his guilt, which has been accepted by the Labour Court and hence, the same is interfered with.

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7. This Court makes it clear that, if the employer has any other terminal benefits due to the employee up to the date of dismissal, it shall be released to him within a period of one month from the date of receipt of a copy of this order.

The Writ Petition is allowed with the above direction. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

(aeb)

To

1. The Presiding Officer,
II Additional Labour Court,
Chennai.
2. The Managing Director,
TANSI, Guindy
Chennai-32
3. The Superintendent,
TANSI Electrical Works,
Guindy, Chennai - 32.
4. The Secretary and Chief Administrative Officer,
(now re-designated as General Manager),
TANSI, Guindy,
Chennai 600 032

+1CC to Mr.J.Ashok, Advocate, Sr.No.35183

W.P.No.8585 of 2006

SV-I(CO)
K.RK. (21.09.2021)