



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22327 of 2005 and
WMP No.24340 of 2005

Management
Ashok Leyland
Sipcot Industrial Complex
Hosur-635 126.

... Petitioner

-vs-

1. P.Dayananda Rao
2. The Presiding Officer
Labour Court
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records connected with the Award dated 03.06.2004 made in I.D.No.333 of 1998 on the file of the 2nd Respondent Labour Court and quash the same.

For Petitioner : Ms.Lakshya Anand
for Mr.S.Ramsubramaniam and
Associates

For Respondents: Mr.V.Ajaykhose (R1)

O R D E R

The petitioner has come forward with this Writ Petition challenging the Award dated 03.06.2004 made in I.D.No.333 of 1998 on the file of the Second Respondent Labour Court and to quash the same.

2.The case of the Petitioner/Management is that the first respondent/employee was employed as monthly rated Clerk in the purchase department of the Management. There are two types of employees employed by the Management viz., one type of employees were engaged in manufacturing and production unit and other category of employees were for the purpose of Administration of the Purchase, Production Control, Stores and Sales. The first respondent was issued with a show cause notice, alleging that he



had failed to carry out specific duties of typing work issued to him inspite of repeated reminders, resulting in grave inconvenience to the Management. Since, the explanation submitted by the first respondent was not satisfactory, a joint domestic enquiry was ordered in respect of the first respondent and another employee, who was also involved in the similar misconduct.

3. It is further case of the Management that, in the domestic enquiry, two witnesses have been examined and 16 documents have been marked on behalf of the Management. No witnesses were examined on behalf of the first respondent, however, 12 exhibits were marked on his side. The Enquiry Officer found him guilty of the charges levelled against him. Based on the enquiry officer's report, second show cause notice was issued to the first respondent, directing him to submit his explanation, for which the first respondent submitted his reply. Not being satisfied with the reply, submitted by the first respondent and finding no mitigating or extenuating circumstances to show mercy for the misconduct committed by the first respondent for the charges proved in the domestic enquiry, the termination order dated 27.01.1992 was passed terminating the first respondent from the services of the Management.

4. Feeling aggrieved by the order of dismissal, the first respondent filed a Claim Petition before the Labour Court, Vellore, to set aside the order of dismissal and the same was numbered as I.D.No.134 of 1994 and thereafter transferred to the file of the second respondent and renumbered as I.D.No.333 of 1998.

5. The second respondent, on hearing the submissions made on both sides and on considering the documents placed before it, has passed an order holding that the domestic enquiry conducted against the first respondent is not proper and valid. Since, the enquiry was set aside by the second respondent, the Management sought permission of the second respondent to let in additional evidence, and the parties also agreed to conduct a joint trial, as two employees were charge-sheeted for the identical misconduct.

6. On completion of evidence by both the parties before the second respondent, arguments were advanced by both the parties. After hearing the arguments on either side, the second respondent passed an award dated 03.06.2004 by granting compensation of a sum of Rs.1,50,000/- (Rupees One Lakh Fifty thousand only) to the First Respondent, instead of reinstatement and continuity of service and other benefits. The Management has come forward with the above writ petition, questioning the award of the Labour Court, stating that once the charges are



held to be proved, the relief of compensation is not warranted.

7. Mr. Ajay Khose, learned counsel appearing for the First Respondent/Employee contended that the Petitioner/Management has stated before the Labour Court, that since the First Respondent along with one Prakash were kept out of employment for about 12 years and the typing works have been abandoned in the Petitioner-Management, it is not possible to accommodate the workmen and the Management is ready to give compensation to them, in case of any finding to be given by the Labour Court for reinstatement. He further submitted that the Labour Court on finding that the punishment imposed on the petitioners is not justified, instead of reinstatement has ordered for compensation payable by the Petitioner-Management, which does not warrant interference.

8. Heard both sides. Perused the materials available on record.

9. Admittedly, the workman has not filed any Writ Petition challenging the award that has gone against him. The only ground of attack made the Management is that once, as the charges were proved, Labour Court cannot interfere with the punishment. The said argument cannot be accepted, for the reason that the domestic enquiry has been set aside, the powers of the Labour Court cannot be curtailed.

10. The Labour Court has rightly granted compensation by invoking Section 11A of The Industrial Disputes Act by observing that since the charges were serious in nature, the First Respondent herein may not be entitled for reinstatement. The other employee, who was also facing charges was granted same relief. But however, he had not questioned the award and during the pendency of the Writ Petition filed by the Management, the worker passed away and there was a settlement entered into between legal heirs and the Management and the same cannot be put against the Management, in order to grant lesser relief or more relief.

11. In the present case on hand, charges have been established based on the fresh evidence let in before the Labour Court. Therefore, I am of the view that the award cannot be held to be perverse and the powers of the Labour Court cannot be taken away.

12. In such view of the matter, this Writ Petition is dismissed. It is represented by the Management that a sum of Rs.1,50,000/- ordered by the Labour Court has already been deposited in the Labour Court. The first respondent/employee is entitled to withdraw the said amount, together with accrued



interest. It is needless to say that any other terminal benefits like gratuity, Provident Fund due to the employee shall be settled by the Management to the First Respondent employee. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer
Labour Court
Salem.

+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.29682

+1cc to Mr.S.Ramasubramaniam, Advocate, S.R.No.29528

W.P.No.22327 of 2005

SMI (CO)
CB(22/10/2021)