



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.24801 OF 2005

R.Sekar

...Petitioner

-Vs-

1. The Management of L.G.Balakrishnan
and Brothers Ltd.,
Ennore Plant, Shakthi Road,
Ganesapuram, Kattampatty Post,
Coimbatore - 641 107.

2. The Presiding Officer,
Labour Court, Coimbatore.

...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records connected with the award passed by the second respondent in I.D.No.573 of 1999, dated 05.06.2002 and quash the same and consequently direct the first respondent to reinstate the petitioner with all back wages and other attendant benefits with continuity of service.

For Petitioner : Ms.S.Girija

For R1 : Mr.Haroon
for M/s.T.S.Gopalan and Co.

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The law relating to reappraisal of an award on the evidences available is well settled and the High Court, exercising its powers under Article 226 of the Constitution of India, cannot act as an Appellate Authority for the purpose of re-appreciating these evidences. In this background, the ground



raised by the petitioner as well as the argument of the learned counsel for the petitioner was looked into.

3. The learned counsel for the petitioner predominantly embarked on the ground that this is a case of victimization, wherein the petitioner was dealt with, in view of his involvement in the union activities.

4. Per contra, the learned counsel appearing for the first respondent-management would submit that the charges are serious in nature and that the petitioner had, along with others, waylaid the car of one of the senior executives of the management and such an incident was proved beyond doubt at the enquiry. In this background, the learned counsel would submit that the petitioner herein, having failed to prove his case before the Labour Court, does not need any indulgence from this Court.

5. Insofar as the ground of victimization raised by the petitioner is concerned, it is seen that the Labour Court had refused to interfere with such a ground, since the petitioner had failed to substantiate such a ground through oral and documentary evidences. When the petitioner comes out with a specific case that his involvement in the union activities has resulted in the punishment, there was a duty cast on him to establish such a ground during the course of enquiry as well as before the Labour Court. Having failed to do so and the Labour Court having recorded that the petitioner had failed to establish the ground of victimization, it is not now open to the petitioner to raise the grounds, touching upon the show cause notices/evidences before the Labour Court and thereby seek for re-appreciation of such factual aspects. When the petitioner had not established the ground of victimization before the Labour Court, I do not find any infirmity with the finding of the Labour Court in rejecting such a ground of victimization.

6. The learned counsel for the petitioner also attempted to state that the very foundation of the charges is falsified, since the petitioner was not involved in the incident. Such a ground also does not require interference, since the recordings before this Court evidences that on the date of the incident, the petitioner, along with other unidentified persons, had waylaid the car of the senior management official and thereby was charged for the misconduct.

7. The Labour Court, while denying the relief of reinstatement sought for, had extended the benefit of gracious payment of Rs.36,000/-. In my view, such a compensation can be termed to be acceptable and does not require any interference.



8. Accordingly, this Court finds that there no merits in the grounds raised by the petitioner in the present writ petition and hence, the Writ Petitions stands dismissed. No costs.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

hvk/ata

To

The Presiding Officer,
Labour Court, Coimbatore.

+1cc to Ms.S.Girija, Advocate, S.R.No.50401

+1cc to M/s.T.S.Gopalan and Co., Advocate, S.R.No.50049

W.P.No.24801 of 2005

PMK (CO)
CS/13/10/2021