



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

AND

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.Nos.529 & 1555 of 2014

D.Ekambaram ... Appellant in W.A.No.529 of 2014

The Director
Indian Institute of Technology
Chennai 600 036 ... Appellant in W.A.No.1555 of 2014

-vs-

1. The Presiding Officer
I Additional Labour Court
High Court Compound
Chennai 600 104 ... 1st Respondent in both the W.A's

2. The Director
Indian Institute of Technology
Chennai 600 036. ... 2nd Respondent in WA 529 of 2014

2. D.Ekambaram ... 2nd Respondent in WA 1555 of 2014

Appeals filed under Clause 15 of the Letters Patent against the order dated 16.04.2013 made in W.P.No.9694 of 2002.

Prayer in W.P.No.9694 of 2002:

Writ Petition filed Under Article 226 of Constitution of India a Writ in the nature of a Writ of Certiorari calling for the records and papers from the files of the 1st Respondent relating to I.D.No.2 of 1994 and quash its impugned preliminary order dated 12.04.1998 (Marked as Ex."A" holding that the domestic Enquiry conducted against the Petitioner to be fair and proper; and also to quash its impugned Final Award dated 27.07.2001 (Marked as Ex."B") rejecting the claim of the Petitioner for reinstatement in service, with back wages, with continuity of service and with all other attendant benefits; to award costs.



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For Appellants :: Mr.K.M.Ramesh for the
Appellant in WA 529 of 2014
Mr.R.Parthiban for the
Appellant in WA 1555 of 2014

For Respondents :: R1-Court
Mr.R.Parthiban for R2
in WA 529 of 2014
Mr.K.M.Ramesh for R2
in WA 1555 of 2014

JUDGMENT

(Judgment of the Court was made by T.RAJA, J.)

The appellant in Writ Appeal No.529 of 2014 is Mr.D.Ekambaram and the appellant in Writ Appeal No.1555 of 2014 is the Director, Indian Institute of Technology, Chennai and they have filed these writ appeals against the order dated 16.4.2013 passed by the learned single Judge in Writ Petition No.9694 of 2002. For convenience, both the appellants will be hereinafter referred to as "the Workman" and "the Management" in this order.

2. The Workman, while serving as Security Guard, was issued with a charge memo dated 20.5.91, containing the following charges:-

"(i) Sri Ekambaram abandoned the duty post before close of his duty hours without handing over the charge to his reliever at 15.45 hours on 25.3.91. He removed the duty post book and handed it over to Sri T.Neelam, Security Guard near Main Office who came to report for duty.

(ii) Sri Ekambaram was absent from duty post on 27.3.91 at about 14.30 hours when CSO inspected the duty post.

(iii) Sri Ekambaram trespassed into the Quarters No.B-6-5 Delhi Avenue on 22.4.91 around 9.30 hours.

(iv) Sri Ekambaram abandoned the duty post during duty hours while he was on second shift duty at Post No.22 Thermodynamics Lab on 29.4.91 and changed to plain clothes and tried to gain illegal entry into the servants quarters at B-6-5 Delhi Avenue around 19.30



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hours when Smt.Vijaya wife of Sri Kanakasundaram was alone in the servants quarters and created nuisance by pelting stones and trying to pull open windows of the said servant quarters."

On receipt of the same, the Workman submitted his explanation. Not satisfied with the same, an enquiry officer was appointed. The Workman, not agreeable to the appointment of the first enquiry officer, asked for another enquiry officer and also a new Presenting Officer and the Management, accepting his request to change both the enquiry officer and the Presenting Officer, appointed a fresh enquiry officer and also a fresh Presenting Officer. Thereafter, the second enquiry officer, Justice R.Sadasivam came into the picture for conducting enquiry. It has been argued by the learned counsel appearing on behalf of the Management that the appointment of Justice R.Sadasivam as an enquiry officer was only on the request made by the Workman, since he was holding enquiry in the same IIT campus against other persons. After accepting the appointment of a fresh enquiry officer, namely, Justice R.Sadasivam, the wild allegations and oral complaint made by the Workman that he would not get a fair treatment, cannot be accepted. Therefore, after the enquiry officer submitted his report noting down that the Workman left the venue of enquiry without cooperating with the enquiry, as a result eleven long months have gone by, the disciplinary authority, accepting the report of the enquiry officer holding the Workman guilty on all counts and thereafter, complying with the other procedures, namely, furnishing a copy of the enquiry report and issuing a second cause notice calling upon the Workman to submit his written explanation, imposed the punishment of removal from service on the Workman, against which the Workman raised an industrial dispute, on the failure of conciliation efforts, in I.D.No.2 of 1994. Thereafter, the I Additional Labour Court, Chennai, framing a preliminary issue, came to the conclusion that the enquiry was fairly and properly conducted and finally, agreeing with the findings of the enquiry officer, dismissed the industrial dispute confirming the punishment of removal from service imposed on the Workman.. Aggrieved by the award passed by the I Additional Labour Court, Chennai, the Workman filed the writ petition. The learned single Judge, although felt that one more opportunity should have been granted to the Workman, again taking note of the fact that the Workman was nearing the age of superannuation, declining to remand the matter for fresh enquiry, directed the Management, on sympathetic ground, to pay the monetary loss of Rs.15,000/- to the Workman as expeditiously as possible. Aggrieved thereby, both the Workman and the Management have filed these writ appeals.



3. We have gone through the various documents referred to by Mr.K.M.Ramesh, learned counsel appearing for the Workman and Mr.R.Parthiban, learned counsel appearing for the Management and also heard their respective submissions.

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4. Since all the four charges levelled against the Workman have been found proved by the enquiry officer and the report of the enquiry officer was also accepted by the disciplinary authority, based on which the punishment of removal from service was also imposed on the Workman, that was also, on proper appreciation, accepted by the I Additional Labour Court, Chennai, which was again left undisturbed by the learned single Judge, considering the fact that the Workman was working as a Security Guard for five long years from 2.4.86 to 2.5.91 on a monthly remuneration of Rs.1450/- that could be seen from paragraph-3 of the award passed by the I Additional Labour Court, Chennai, to meet the ends of justice, we hereby direct the Management to pay a sum of Rs.50,000/-, instead of Rs.15,000/-, to the Workman within a period of four weeks from the date of receipt of a copy of this order. Mr.K.M.Ramesh, learned counsel appearing for the Workman shall forthwith furnish the latest and correct address of the Workman to Mr.R.Parthiban, learned counsel appearing for the Management, who shall in turn take appropriate steps for payment of the aforesaid amount to the Workman. With this direction, both the writ appeals are disposed of accordingly. However, there is no order as to costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,
I Additional Labour Court,
High Court Compound,
Chennai 600 104.



2. The Director,
Indian Institute of Technology,
Chennai 600 036.

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+1cc to Mr.R.Parthiban, Advocate Sr.36338

+1cc to Mr.K.M.Ramesh, Advocate Sr.36222

W.A.Nos.529 & 1555 of 2014

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srg 23/08/2021