



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.16456 of 2013

and M.P. (MD) .No.1 of 2013

WEB COPY

S.Pandaram

.. Petitioner

Vs.

1.The Management,
Shankar Spinning Mills Pvt. Ltd.,
Madurai Road, Sankar Nagar Post,
Tirunelveli District.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to I.D.No.78/1994, dated 24.11.2011 and quash the same and consequently, to direct the respondent to re-instate the petitioner with the continuity of service and back wages.

For Petitioner : Mr.D.Saravanan

For Respondents : Mr.M.E.Ilango for R1

ORDER

This writ petition is filed for issuing a writ of Certiorarified Mandamus to quash the order passed in I.D.No.78 fo 1994, dated 24.11.2011 and to direct the first respondent to re-instate the petitioner with the continuity of service and back wages.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

3.The petitioner was appointed as Topper in the year 1981, in the first respondent's establishment. The petitioner's service was also regularized from 1985. The petitioner in connection with a criminal case, surrendered before the learned Judicial Magistrate at Tirunelveli in Crime No.77 of 1990, on 21.04.1990. It is the case



of the petitioner that he was falsely implicated in the criminal case and the criminal case now ended in acquittal after a full-fledged trial. However, in the course of attending the criminal case, the petitioner was absent from work and his non-appearance was taken seriously. A charge-memo was issued to the petitioner for his unauthorized absence and an Enquiry Officer was also appointed. After completing his enquiry, the Enquiry Officer submitted a report finding that the petitioner is guilty of the charges. Thereafter, based on the enquiry report, the petitioner was dismissed from service. It is to be seen that the petitioner did not participate in the enquiry. However, the Enquiry Officer proceeded to go further with the enquiry on the basis of materials available on record. Only after considering the facts and materials, the punishment was given to the petitioner.

4.Challenging the order of punishment of dismissal from service, the petitioner filed a petition in I.D.No.78 of 1994 before the Labour Court. The Labour Court, after considering the available materials and pleadings, held that the punishment given to the petitioner is appropriate and that the petitioner raising industrial dispute is liable to be dismissed. Aggrieved over the same, the petitioner has preferred the above writ petition.

5.The charges against the petitioner was mainly by alleging that the petitioner did not report for duty for a long time. The fact that the petitioner was absent under the pretext of facing criminal proceedings is not in dispute. Though the petitioner submitted a leave application, it is seen that the reason for applying leave was illness. Therefore, the petitioner did not give the true reason. Leave was refused and the acknowledgement of communication refusing leave is marked as a document. No explanation or communication from petitioner for his unauthorised absence from 18.04.1990 to 06.09.1993. Hence, the charge that the petitioner was unauthorisedly absent stands proved. Unauthorized absence is a major offence, and the punishment cannot be less than dismissal from service. The petitioner had involved in a criminal case. The petitioner and others were charged for the commission of a murder which is a serious offence. Though the petitioner was later acquitted, the fact that the petitioner's involvement in the criminal case has resulted in other consequences. The findings of the Labour Court regarding proving of charge is unassailable. The petitioner has not pointed out any material irregularity or illegality either in the decision making process or in the decision. When the award of Labour Court is supported by reasons, this Court is not expected to interfere with the award unless there are vitiating circumstances. In view of the above reasons, this Court finds no merit in the writ petition.

6.Accordingly, this writ petition is dismissed. No costs.



Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

WEB COPY

/ /2021

Sub Assistant Registrar (CS)

TM

To

The Presiding Officer,
Labour Court,
Tirunelveli.

+1 CC to M/s.M.E.ILANGO, Advocate (SR-26113[F] dated 12/08/2021)

W.P. (MD) .No.16456 of 2013
11.08.2021

KS (CO)
SB (27.08.2021 3P 3C