



W.P.No.10311 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10311 of 2013

and

W.M.P.No.29766 of 2018

The Management of
Godrej Boyce Manufacturing Co (P) Ltd.,
No.1, SIDCO Industrial Estate,
Ambattur, Madras – 98.
rep. by its Commercial Manager.

....

Petitioner

Vs

1. The Presiding Officer,
The Principal Labour Court,
Chennai.

2. A.Rajasekar

....

Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari calling for the records of the first respondent in ID No.225 of 1995 and quash its award dated 27.02.2013.

For Petitioner	: Mr.Anand Gopalan for M/s.T.S.Gopalan & Co
For R1	: Labour Court
For R2	: Mr.S.Parthasarathy for Mr.R.Sankarasubbu



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ORDER

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This Writ Petition has been filed challenging the Award passed by the first respondent in I.D.No.225 of 1995 dated 27.02.2013, thereby ordered to reinstate the second respondent in service with 25% of back wages, continuity of service and all other attendant benefits.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

3. The second respondent had joined in the service of the petitioner Management on 01.06.1981 as Helper. Thereafter, he was promoted to the post of 'C' Grade Mechanic. The practice in the petitioner Management was that at the commencement of working hours, each workman will be allotted the work to be performed by the workman duly recorded in a note book maintained for the purpose and also a work allocation note will be issued. The concerned workman was required to maintain the daily work report where he has to make entires mentioning the work carried out by him during the day. The second respondent was



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a loner and invariably he exhibited an attitude of not working in tandem with other group of workmen. Therefore, he used to be allotted separate work and even then he never used to complete the work assigned to him. Between 12.11.1993 and 31.01.1994, only on 11 days he completed the work assigned to him and he failed to complete 50% of the work.

4. That apart, the second respondent abused one A.M.Wilson, while he was proceeded to Plant No.II. Therefore, the second respondent was served with two charge sheets dated 04.02.1994. The first one was for his go-slow during the period from 12.11.1993 to 31.01.1994 and the second one was for his misbehaviour with A.M.Wilson on 13.01.1994. However, the second respondent did not submit any explanation. Therefore, an enquiry was ordered and during the enquiry, the Service Executive was examined in support of the Management. On the strength of the enquiry report dated 27.04.1994, it is found that the second respondent had deliberately not completed the work allotted to him during the relevant period and the charges were also proved. On the basis of the enquiry reports, the second respondent was served with show cause notice and on receipt of the same, the second



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respondent submitted his explanation. Without being satisfied with the explanation submitted by the second respondent, the petitioner Management dismissed him from service by an order dated 04.08.1994. Aggrieved by the same, the second respondent preferred Industrial Dispute in I.D.No.225 of 1995. The first respondent passed an Award, thereby directed the petitioner Management to reinstate the second respondent with 25% of back wages.

5. The learned counsel appearing for the petitioner would submit that insofar as the reinstatement is concerned, he has no grievance over the Award passed by the first respondent. Insofar as the back wages is concerned, the second respondent was dismissed from service by an order dated 04.08.1994. From the year 1995 onwards, the second respondent dragging the proceedings and the Award passed only on 27.02.2013.

6. That apart, the second respondent failed to prove that he was not gained work anywhere during that period. Therefore, he is not entitled for any back wages. Further both the charges were proved as



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against the second respondent, for which the second respondent should be imposed some punishment. The charge of go-slow is not a serious misconduct and it is deserved for punishment of dismissal. Therefore, though the charge of go-slow was proved, the punishment of dismissal from service is disproportionate to the charge. Insofar as the other charge is concerned, he threatened and abused his superior one A.M.Wilson. The words used by the second respondent are not in the form of threatening and as subversive of discipline.

7. Admittedly, there was no complaint lodged by the said A.M.Wilson for the act committed by the second respondent. Therefore, the first respondent rightly concluded that the act committed by the second respondent would not amount to misconduct. Therefore, the first respondent rightly ordered for reinstatement of the second respondent with 25% of back wages, continuity of service and all other attendant benefits. Insofar as the 25% of the back wages is concerned, the Industrial Dispute was raised in the year 1985 and it was ordered by the first respondent on 27.02.2013. On all the hearings, the second respondent contested the dispute before the first respondent. Therefore, the first respondent rightly ordered 25% of back wages.



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8. In view of the above, this Court finds no infirmity or illegality in the Award dated 27.02.2013 passed by the first respondent. Thus, the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

24.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

The Presiding Officer,
The Principal Labour Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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