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W.P.No.31109 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.31109 of 2004

T.Thirulogam

...Petitioner

..Vs..

1.The Principal Labour Court,
Chennai.

2. Eswaran & Sons Engineering Ltd.
Switchgear Division, Ernavoor,
Chennai – 52.

...Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the award of the Principal Labour Court, Chennai, the first respondent herein passed in I.D.No.499 of 1997 dated 07.05.2004 and set aside the said award dated 07.05.2004.

For Petitioner : Mr.S.Periyasamy

For R1 : Labour Court

For R2 : No appearance



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ORDER

This writ petition has been filed praying to call for the records pertaining to the award of the Principal Labour Court, Chennai, the first respondent herein passed in I.D.No.499 of 1997 dated 07.05.2004 and to set aside the said award dated 07.05.2004.

2. The Labour who was dismissed from service has raised an Industrial Dispute which ended unsuccessful and has filed the writ petition for re-instatement into service.

3. The service matrix of the petitioner is that:-

(i) The petitioner has joined the service of the respondent's Company on 08.09.1971 and he was continuously worked for 25 years. On 28.10.1996, the respondent issued charge memo to the petitioner and the petitioner submitted his explanation.

(ii)The respondent ordered domestic enquiry and during the domestic enquiry, the petitioner examined himself as W.W.1 and marked Exs.W1 to W10. On the side of the Management, five witnesses were examined and Exs. M1 to M27 were marked. The enquiry officer presented his findings to the Management.



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(iii) Second show cause notice dated 06.12.1996 was issued with the copy of the findings of the enquiry officer and the petitioner submitted his explanation. The respondent-Management dismissed the petitioner by an order dated 14.12.1996. The respondent has not considered the past service of the petitioner. The petitioner raised I.D before the Labour Officer and the conciliation proceedings ended in failure hence he filed the I.D.

4. The point for consideration was taken as "Whether the non employment of the petitioner is justified; if not to what relief the petitioner is entitled or not?

5. Heard the learned counsel for the petitioner.

6. The learned counsel for the petitioner would contend that the petitioner joined in the service of the respondent on 08.09.1971 and his services were confirmed on 01.04.1977. Charge memo was issued on 28.10.96 and an enquiry was conducted and on the basis of the findings of the enquiry officer, the petitioner was discharged from service.



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7. The grievance of the petitioner is that the domestic enquiry was conducted in a biased manner and he has not committed any serious misconduct. The Management has relied upon Exs.M13 to M27 with regard to the conduct of the very same petitioner in causing the grievous injury in respect of co-employee.

8. During the cross-examination, the following facts were admitted by the petitioner.

"On the basis of the charge sheet, the petitioner was removed from service after conducting the domestic enquiry. The petitioner was served charge memo before 20.10.96 and he has also submitted his explanations."

9. Admittedly, the I.D was filed in the year 1997. The counter has been filed as early as on 13.05.1998. The petitioner has chosen to file a reply statement on 27.06.1998 just before the trial and hence the averment made in the reply affidavit that allegation made against enquiry officer is only on fact, though it is come on evidence through Exs.M13 to M27 coupled with the admission now in the witness box.



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10. As extracted supra, a similar kind of misconduct of causing grievance assaulted on the co-employee has been proved and hence this is a second time hence taking note of the previous conduct the respondent has dismissed the petitioner from service and the ID is also dismissed.

11. The learned counsel tried to impress upon me, the non employment of the petitioner is not justified and previous conduct should not be taken into account, I am unable to accept the said contention for more than one reason that the previous conduct was admitted by him during the cross examination of W.W.1. The proceedings of the previous instance have been marked is Exs.M.13 to M.27 and there was no cross-examination on those Exhibits M13 to M27 and therefore a finding rendered by the Labour Court does not warrant any interference by this Court.

12. Accordingly, I do not find any merits in this case and this Writ Petition is dismissed. No costs.

28.07.2023

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Neutral Citation : Yes/No
To
The Principal Labour Court, Chennai.



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RMT.TEEKAA RAMAN,J.,

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