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W.P.No.39711 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

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

W.P.No.39711 of 2004

S.A.Sebastian

... Petitioner

-Vs-

1. The Management of Woodlands Estate,
Kullakumbai Post,
Nilgiris-643 218.

2. The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records of the Labour Court, Coimbatore relating to its Award dated 07.08.2003 in I.D.No.203 of 2000 and quash the same and consequently direct the first respondent to reinstate the petitioner with continuity of service and full back wages.

For Petitioner	: Mrs.V.Porkodi for Mr. R.Krishnaswamy
For R1	: Mr.Anand Gopalan for M/s.T.S.Gopalan and Co
R2	: Court



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ORDER

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This writ petition has been filed challenging the Award passed by the second respondent in I.D.No.203 of 2000 dated 07.08.2003, thereby dismissing the Industrial Dispute raised by the petitioner as against the order of dismissal from service.

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

3. The case of the petitioner is that the petitioner was employed as a Plucker in the first respondent Tea Estate. In the year 1995, the workers of the respondent Management decided to jointly organize a dharna over various demands. The petitioner was the Secretary of the Joint Action Committee and other Unions. The first respondent pressurized the petitioner to withdraw the agitations. However, the petitioner did not submit to the first respondent Management's pressure and proceeded with the dharna, which embarrassed the Management. In order to victimize the petitioner, a series of charge sheets were issued. Though



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the petitioner submitted his explanation, the same was not considered and an enquiry was conducted. The first charge sheet dated 02.08.1995 alleges that the petitioner remained unauthorized absence until July, 1995 viz., 75 ½ days without getting permission. Along with the charge sheet, the Management did not furnish any list of witnesses and documents. The petitioner produced leave letters at the enquiry and admitted in the cross examination that three more leave letters were in the office. In fact, the witnesses did not deny the suggestion that the petitioner had submitted leave letters and also stated that there was no practice of granting receipts for the leave letters.

4. The second charge sheet dated 05.08.1995 relates to an alleged meeting held by the petitioner on 13.07.1995 along with 10 and 15 Workmen at the market area in the Estate. The allegation was that the petitioner criticized the Management and used abusive language and had thus, violated the Standing Order No.23(20), which prohibits holding of meetings without the permission of the Management except in the prescribed places. The Standing Order Nos.23(11) and 23(12) which related to rioting and disorderly behaviour and act of subversive of



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discipline was also alleged to have been violated. However, the petitioner denied those charges.

5. The third charge sheet dated 10.10.1995 relates to the unauthorized leave from 24.08.1995 to 16.09.1995. The unauthorized absence is in violation of the Standing Orders No.23(6), 23(9) and 23(12). The petitioner submitted explanation with the leave letter stating that he actually underwent medical treatment for the wound on his legs. The hospital records were marked as Exs.M1 and M2. After completion of the enquiry, the petitioner was served with a show cause notice dated 11.12.1995, based on the enquiry findings and also stated that the absence of any mitigating factors, the Management will come to the conclusion that the petitioner should be dismissed from service. On receipt of the explanation submitted by the petitioner, the first respondent dismissed the petitioner from service. Thereafter, the first respondent submitted an approval application as contemplated under Section 33(2)(b) of the Industrial Disputes Act.



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6. Before the Joint Commissioner of Labour (A), Coimbatore, the parties were called upon for a discussion. However, the petitioner did not agree for giving up his backwages and the petitioner decided to raise an Industrial Dispute under Section 2A of the Industrial Disputes Act. The Conciliation proceedings failed before the Labour Officer and it was referred to the Labour Court.

7. The learned counsel for the petitioner would submit that even assuming that the charges were held to be proved, the punishment for the charges is disproportionate. The charges were of unauthorized absence and without any permission he conducted a meeting. The second respondent failed to re-appraise the evidence to see whether the finding of guilt was properly arrived at or not, as contemplated under Section 11A of the Industrial Disputes Act. There is no discussion on the evidence on each charge. In fact, the charge relating to unauthorized leave was not proved, since even the Management witness admitted that they had copies of leave applications as against several leave application submitted by the workman. The findings of the Enquiry Officer with reference to the wound on the petitioner's leg is clearly irrational and



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perverse. Once the factum of medical aid received by the petitioner is proved, the fact that the receipts related to a subsequent date would not falsify the wound having been suffered earlier. The petitioner, being the President of the Plantation Labour and Supervisors Union, was agitating on behalf of the worker, including a demand for recognition of the Union. The petitioner had organized the agitation and now, he is facing the order of dismissal and it is nothing but an act of victimization.

8. A perusal of records revealed that the petitioner was served with four sets of charge sheets. The third charge was held to be proved by the Enquiry Officer's conclusion. Insofar as the fourth charge is concerned, that was dropped and no further action has been taken as against the petitioner. The petitioner was issued with a charge sheet dated 18.07.1995 for his absence from work and thereby causing disruption of work in the Estate and also loss. The petitioner was also served with another charge sheet dated 19.07.1995 alleging that on 13.07.1995 at about 06.30 p.m, he had organized a dharna of about 10 to 15 people at the drama stage of the lower extent of the Estate without permission and used bad language against the Management. Further, as



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per the first charge sheet, he did not come to work as he had to go to Coimbatore to look after his mother who was in the hospital. In pursuant to the findings of the Enquiry Officer, the petitioner was served with show cause notice and was asked to submit his explanation. The petitioner submitted explanation. It was not satisfactory and as such, the first respondent dismissed the petitioner from service.

9. In view of the above, this Court finds no perverse in the findings of the second respondent to interfere with the Award passed by the second respondent in I.D.No.203 of 2000 dated 07.08.2003 and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

12.09.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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