



WP.Nos.25067 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.09.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.25067 of 2011

and

MP.No. 1 of 2011

The Management
M/s.Chemidye Manufacturning Company,
25-A, SIPCOT Industrial Complex,
Ranipet-632 403,
Vellore District,
Rep. by G.Rajendran.

...Petitioner

Vs.

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

2. S.Vinayagamoorthy

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records and quash the Award dated 02.08.2010 passed in I.D.193 of 2007 by the 1st respondent, Presiding Officer, Principal Labour Court, Vellore.

For Petitioner : M/s.R.S.Lakshmipriya
for M/s. Gupta & Ravi

For Respondents : R-1 – Court
R-2 – No appearance



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ORDER

WEB COPY Writ Petition is filed by the management challenging the award passed in I.D.193 of 2007, wherein the 2nd respondent was directed to be reinstated in service without continuity of service, monetary benefits and backwages.

2. The brief facts of the case are that the workman was engaged as driver by the Executive Director of the petitioner company in his personal capacity. On 20.01.2004, the workman applied to the petitioner company for employment and based on the application and after following due procedures, he was appointed as Supervisor Trainee in the petitioner company vide order dated 02.02.2004. The workman after completion of his training period of two years was regularised in service with effect from 24.02.2006. The workman reported for duty on 29.06.2006 and thereafter did not report for work.

3. According to the petitioner, during the period June 2006, it was observed by the officials of the petitioner that the workman's conduct was



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not normal and was unbecoming of an employee. The workman reported for duty on 04.07.2006 as usual in the first shift which started at 8.30 am. At about 12.05 hrs., the workman without any reason barged into the office of the factory manager, one Mr.Chandramohan and started arguing with him on irrelevant issues. The factory manager was shocked at the workman's behavior and tried to pacify him. But all of a sudden, the workman took out a small bottle of poison from his pocket and threatened to consume the same. The factory manager called his colleagues out of panic and even before their arrival, the workman consumed the poison. The officials of the petitioner immediately rushed him to Wallajah Government Hospital where the Doctors treated and declared him safe. The petitioner thereafter informed the incident to the SIPCOT police station on 04.07.2006 for necessary action and a case was also registered against the workman.

4. As the act of the workman in consuming poison amounted to grave misconduct under the model standing orders of the petitioner establishment, a charge memo was issued to him on 18.07.2006. The



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workman submitted an explanation on 24.07.2006 denying the charge and further justified his action stating that he was agitated because he was asked to leave the services of the petitioner by three officers of the petitioner. Since the explanation submitted by the workman was not satisfactory, a domestic enquiry was conducted. In the enquiry proceedings reasonable and fair opportunity was given to the workman. The enquiry officer found that the charges were proved and filed his report on 30.09.2006. In pursuance of the enquiry officer's report, the second show cause notice was issued on 11.10.2006 calling upon the workman to offer his explanation. The workman submitted his explanation on 19.10.2006 and as the said explanation was also found to be unsatisfactory, the Petitioner terminated the services of the workman on 01.11.2006. The workman raised the dispute and as the conciliation proceedings failed, the dispute was registered as I.D.No.193 of 2007.

5. Before the Labour Court, the workman neither filed any documents nor examined any witness on his side. The petitioner management did not examine any witness but filed documents M.W1 to



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MW17. The Labour Court on the basis of the materials on record, found that the domestic enquiry was conducted fairly and properly. The Labour Court confirmed the findings of the enquiry officer that the charges were proved on the ground that the workman had failed to prove by leading contra evidence that the findings of the enquiry officer were erroneous, perverse and not based on evidence.

6. The Labour Court interfered with the punishment imposed by the the Petitioner by substituting the order of termination of service to one of reinstatement without continuity of service, monetary benefits and backwages.

7. Aggrieved by the order passed by the Labour Court, the Petitioner has filed the above writ petition.

8. The only point to be decided in the writ petition is whether the Labour Court was justified in interfering with the quantum of punishment



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imposed by the petitioner.

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9. The learned counsel for the Petitioner submitted that the Labour Court having held that the enquiry proceedings and findings of the enquiry officer were unassailable, ought not to have interfered with the punishment imposed by the Petitioner. According to the counsel, the misconduct committed by the workman was grave in nature and therefore the punishment of termination of service could not be said to be disproportionate to the proved misconduct.

10. I have heard the learned counsel for the petitioner. Though notice was issued to the workman and his name is printed in the cause list he has not appeared either in person or through counsel.

11. It is seen that the petitioner was charged with misconduct of consuming poison in the office of the factory manager. Undisputedly, the misconduct was a grave one under the standing orders of the petitioner



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company. The Labour Court found that the enquiry proceedings were conducted in a fair and proper manner. On an appreciation of the evidence on record, the Labour Court found that there was absolutely no perversity or illegality in the findings of the enquiry officer and therefore confirmed the findings of the enquiry officer that the charges were proved. The Labour Court interfered with the quantum of punishment imposed by the petitioner company merely on sympathetic grounds.

12. It is to be seen whether the power under Section 11-A to interfere with the quantum of punishment can be invoked on mere sympathy. It is trite that, in the matter of imposition of punishment, absolute discretion is vested with the employer and the same cannot be interfered without sound reasons. The Hon'ble Supreme Court has time and again held that the Court should not entertain misplaced sympathy towards a workman as interference with the punishment from the angle of rehabilitation and reformation could arise only in a case of minor delinquency or misconduct. In case of grave misconduct, interference in the quantum of punishment



would amount to interfering with the prerogative of the employer in imposing the punishment at its discretion. In the case of *Godrej Boyce Manufacturing Company, Ltd., Madras vs. Presiding Officer, Labour Court, Madras* and another reported in 1998 (3) LLN 363 it was held as follows:

“28. The Labour Court itself has come to the conclusion that the charge against the petitioner made on January 7, 1985 as per M.M. 21 is not a simple one, on the other hand, it is a serious one. The Labour Court has considered that the workman is a married person and he is out of employment for 4 1/2 years and if he is not reinstated, his family would suffer. It also mentioned that the management must give one opportunity to reform himself. As a matter of fact, all these reasons are (not sic) germane for consideration. Further, the Labour Court has proceeded mainly on the ground of sympathy for modifying the punishment of dismissal into reinstatement without back-wages. I have already demonstrated the decision of the Division Bench of this Court in 1997 (1) L.L.N. 391 (vide supra), wherein their Lordships have held that the Court should not entertain a misplaced sympathy towards a workman and should not prejudice the issue from the angle of rehabilitation and reformatoin could arise in a case of minor delinquency on misconduct. Absence for a longer period may be a minor delinquency. Apart from the above charge, the workman was found proved of



charges regarding misappropriation and cheating. Those charges are grave in nature In such a circumstance, I am of the view that the conclusion and the ultimate direction issued by the Division Bench in the said decision are directly applicable to our case."

13. So also in the Judgment of this Court in the case of *Air Lanka Ltd. (Rep.by its Manager), Madras vs John William Nathan and Anr* reported in 1990 SCC OnLine Mad 397 it was held in para 28 as follows:

"28. Considering the authorities cited by both sides, it is clear that in pursuance of the power conferred under Section 11-A of the Act, the Labour Court has discretion to interfere with the punishment imposed by the domestic Tribunal for valid and sound reasons. The only question is while exercising the power the Labour Court has to take into consideration the entire facts and circumstances of the case to decide as to whether reinstatement should be ordered or any compensation in lieu of reinstatement should be awarded. Learned counsel for the petitioner cited the decisions in Sri Gopalakrishna Mills (P) Ltd v. Labour Court and Anr. (1980) L.L.J. 425 and Seeralan v. Additional Labour Court, Madras and Anr. (1986) L.L.N. 663, to the effect that once the charge was found proved there was very little scope for generosity to be shown or to bring into existence the minor punishment, that the



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motive of the workmen in doing the act attributed to him is not material, that the length of service is not relevant in the imposition of punishment for proved misconduct and that the leniency in the matter of punishment would depend on the nature of misconduct. The Division Bench of this Court in those decisions did not interfere with the punishment of termination of service of the employees concerned. “

14. In the light of the above Judgments of this Court, I am of the view that the Labour Court erred in interfering with the punishment imposed by the petitioner company merely on sympathetic grounds and therefore the award passed by the Labour Court is set aside.

In the result, this writ petition stands allowed. There shall be no order as to costs. Connected MP is closed.

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Index: Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
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