



W.P.No.29488 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.29488 of 2016 and
W.M.P.Nos.25524 of 2016**

The General Manager,
Lotus Footwear Enterprises Limited,
3-B, SIPCOT Industrial Park,
Mangal – Mathur Post,
Cheyyar – 604 407.

... Petitioner

Vs.

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

2. V.Baskaran

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records connected with I.D.No.41 of 2015 and quash the award dated 18.03.2016 passed by the first respondent / Presiding Officer, Principal Labour Court, Vellore.

For Petitioner : Mr.C.Manohar Gupta
for Mr.M.Kandasamy

For Respondents : R1 – Labour Court
Mr.T.Ramkumar for R2



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ORDER

The impugned award in I.D.No.41 of 2015, dated 18.03.2016 passed by the first respondent is under challenge in the Writ Petition.

2. The writ petitioner is the Management. The case of the petitioner is that the second respondent was appointed as Assistant on probation vide letter dated 11.02.2010 and on completion of probation, he had confirmed in the same position, vide confirmation letter dated 11.02.2016. While so, on 14.04.2014, the petitioner / Management received a combined compliant from twelve of the employees including women employees stating that the second respondent demanded them to sign in the letters, forms and note book. Since the allegations levelled against the second respondent was grave and serious in nature, the petitioner Management decided to suspend the second respondent and accordingly, the second respondent was suspended vide order dated 17.04.2014. Thereafter, he was issued with charge memo and pursuant to the enquiry, the second respondent was found guilty of the charges leveled against him. He was



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issued with the show cause notice on 31.10.2014. On being dissatisfied with the reply to the show cause notice, the second show cause notice was issued on 14.11.2014, for which, the second respondent submitted his reply on 21.11.2014. Since the said reply was also not satisfactory, the petitioner Management decided to terminate the second respondent and issued the termination order dated 24.12.2014 terminating the service of the second respondent. Challenging the said termination order, the second respondent raised an Industrial Dispute in I.D.No.41 of 2015.

3. Both the parties filed the pleadings and marked respective documents in the said I.D. Ultimately, the Labour Court set aside the domestic enquiry conducted by the Management on the ground that the Management has given the charge sheet to the second respondent after appointing the Enquiry Officer fixing the date for enquiry. On the request of the petitioner, the Labour Court allowed to examine the witnesses once again and marked additional documents. After completion of the same, the Labour Court set aside the dismissal order dated 24.12.2014 and directed



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the petitioner / Management to reinstate the second respondent with full backwages and other benefits. Challenging the said award, the present Writ Petition has been filed.

4. The learned counsel for the petitioner / Management challenges the award on the following grounds:

(a) Though the Labour Court had allowed both the parties to let in additional evidence and mark additional documents, the same were not considered in proper prospective and the Labour Court proceeded to criticize the domestic enquiry conducted by the petitioner / Management and thereby has committed an error apparent on the face of it;

(b) The Labour Court failed to appreciate the fact that the second respondent did not examined himself as a witness in the domestic enquiry demanding the charges levelled against him and that the charges levelled were serious in nature;

(c) The Labour Court has mechanically granted the relief of reinstatement with full backwages and failed to consider the judgment of the



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Hon'ble Supreme Court reported in 2006 Vol-IV LLN Pg.23, wherein the Hon'ble Supreme Court had held that while dealing with the prayer of backwages, factual scenario and the principles of justice, equality and good conscience have to be kept in view by the Labour Court.

Citing the above grounds, the learned counsel for the petitioner / Management urged this Court to set aside the award passed by the Labour Court directing the reinstatement of the second respondent.

5. During the pendency of the Writ Petition, this Court by order dated 01.12.2021 had ordered 17-B wages to the second respondent / workman.

6. The learned counsel for the second respondent / workman submitted that the Labour Court after elaborately considering the facts and circumstances of the case and that the Standing Orders were not followed by the Management, mechanically passed the termination order. That apart, the second respondent was terminated without affording any opportunity and



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hence, the Labour Court was right in awarding the reinstatement with backwages and continuity of service. Hence, the learned counsel seeks for dismissal of the Writ Petition.

7. I have heard the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. Considering the facts and circumstances of the case and the nature of the charges leveled against the delinquent worker, a careful perusal of the order passed by the Labour Court reveals that all aspects have been taken into consideration, which setting aside the dismissal and ordering reinstatement. However, this Court is of the view that the punishment imposed upon the delinquent worker, i.e., second respondent should be proportionate to the charges leveled against him. The delinquency of the second respondent has been proved, but the punishment imposed is severe.



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9. Normally, this Court would not interfere with the punishment imposed on the delinquent unless it is shown to be arbitrary, perverse, illegal and further the punishment imposed on the delinquent shocks the conscience of this Court, as this Court is guided by the ratio laid down in ***Prem Nath Bali – Vs – High Court of Delhi (2015 (16) SCC 415)***. So long as the punishment imposed is not disproportionate to the charges framed against, the Courts normally would not interfere with the punishment.

10. It has been the consistent view of the Courts that it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere with the same in exercise of powers under Article 226 of the Constitution. In ***Prem Nath Bali – Vs – High Court of Delhi, reported in 2015 (16) SCC 415***, the Hon'ble Supreme Court held as under :-



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“20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to



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the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.”

(Emphasis Supplied)

11. Once delinquency is proved, the workman would have to undergo punishment. Such being the case, this Court feels that reinstatement without backwages would secure the ends of justice. Accordingly, this Court after taking into consideration the claim made by the petitioner / Management as well and the ground of attack raised by the learned counsel for the petitioner / Management challenging the award of the Labour Court is of the considered view that the award passed by the Labour Court can be modified to the following extend:

(i) The award in I.D.No.41 of 2015 dated 18.03.2016 is modified and the petitioner / Management is directed to reinstate the second respondent / workman within a period of two weeks



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from the date of receipt of a copy of this order. The second respondent / workman is not entitled for any backwages. However, the workman is entitled to other benefits including the continuity of service.

(ii) It is made clear that the 17-B wages paid to the workman pursuant to the orders passed by this Court dated 01.12.2021 shall not be recovered from the workman.

12. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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