



WEB COPY



W.P.No.14747 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Writ Petition No.14747 of 2014

G.Kumar

.... Petitioner

-Vs-

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

2.The Management of
Eastern Chrome Tanning Corporation (P)
Ltd., M.C.Road, Solur, Ambur,
Vellore District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the award dated 16.07.2012 of the 1st respondent passed in I.D.No.89 of 2011, quash the same and consequently direct the 2nd respondent to reinstate the petitioner with continuity of service, back wages and other attendant benefits with award costs.

For Petitioner : Mr. S.T.Varadarajulu
For Respondents : R1- Court
R2 – No appearance

ORDER

This writ petition challenges the dismissal of the petition filed under Section 2A(2) of the Industrial Disputes Act, 1947. The case of the petitioner is that he was



working as a gardener on permanent basis from 10.05.1989 to 01.10.2010. His last drawn pay was Rs.6,256/-. He was charged with committing theft of articles belonging to the management on 29.08.2009. A charge memo was issued and a detailed domestic enquiry was conducted. The Enquiry Officer filed a report that the charges have been proved against the petitioner. Notice was given on the enquiry report and the petitioner's further explanation was not accepted. Consequently, he was terminated from service on 01.10.2010. On filing Industrial Dispute in I.D.No.89 of 2011, the petitioner raised a preliminary issue challenging the procedure adopted by the second respondent at the time of domestic enquiry. On behalf of the petitioner Exs.W1 to W8 were marked and on behalf of the respondent Exs.M1 to M4 were marked. Being satisfied with the manner in which the enquiry was conducted, the labour Court held against the petitioner and came to a conclusion that the domestic enquiry was conducted in accordance with the principles of law and there was sufficient compliance with the principles of natural justice. This order was passed on 08.06.2012. Subsequently, the main industrial dispute was taken up for enquiry and by order dated 16.07.2012, the industrial dispute in I.D.No.89 of 2011 came to be dismissed. Challenging the same the present writ petition has been filed.

2. Mr.S.T.Varadharajulu, learned counsel for the petitioner would submit that the Labour Court had not applied its mind to two crucial facts, first is that no police complaint was given against the petitioner. He would elaborate on this point and would submit that had the theft actually taken place, the management would have



given a complaint and the failure to lodge a complaint belies the case of the respondent. The second point he would urge is that there is no proof that the materials which were recovered from the vehicle of the petitioner belong to the management and therefore the charge of theft is not proved.

3. According to him, these are two crucial facts to which the labour court had not applied its mind and therefore he would plead that the writ petition be allowed, the order of the labour Court be set aside and the petitioner be directed to be reinstated with continuity of service.

4. Though the respondent management has been served, nobody had entered appearance. I have carefully considered the arguments of the writ petitioner. I am afraid I am not convinced by both the submissions made by the learned counsel. At the outset it must be noticed that the enquiry officer as well as the labour court have come to a clear finding on facts that the petitioner used to come to the premises on a Hero Honda vehicle everyday. However, on the day of the incident, he came on his vehicle at 6.00 a.m to the company premises and yet again at about 9.30 a.m., he came in a TVS-50 vehicle. Finding this repeated entry suspicious, the security staff of the second respondent had called upon the petitioner to open the box. On opening the box it came to be revealed that the articles belonging to the second respondent were found in the box attached to the TVS-50 vehicle. The petitioner had not raised any dispute as regards the ownership of the materials. He argued that the materials



were not taken by him, but were placed by one Rajendran. In other words, the ownership of the materials has been accepted, but the plea was that it had been planted in the vehicle belonging to the petitioner. This puts an end to the second argument of the learned counsel that the title of the goods had not been proved. If the petitioner had been confident that the materials did not belong to the management, he would have taken such a stand. On the contrary, his stand was that the materials belong to the management, but had been planted in the vehicle due to some previous enmity by the aforesaid Rajendran.

5. Taking up the first argument, the failure to lodge a police complaint is not fatal to the case of the second respondent management because it had decided to proceed against the petitioner departmentally and not lodge a criminal complaint. The management had been charitable to the workman and that cannot be held against them. Both the enquiry officer as well as the labour Court have applied their mind to the facts of the case and they have written findings of facts which cannot be impeached by way of proceedings under Article 226 of the Constitution of India. In **U.P.State Road Transport Corporation -Vs- Suresh Chand Sharma and Others (2010) 6 SCC 555**, the Supreme Court has held, where it is an act of theft or corruption, Courts must not come to the rescue of the delinquents. Here is a case where theft has not only been discovered but also had been proved at the time of enquiry. The enquiry has been found to be in compliance with the principles of natural justice and despite the opportunity given to the petitioner, he has not been



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able to convince the labour Court on facts. The act being one of theft, I am not inclined to interfere with the order of the labour Court. Accordingly, the writ petition stands dismissed. No costs.

01.06.2023

NCS : Yes/No
Index : Yes/No
KST

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V. LAKSHMINARAYANAN, J.

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