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W.P. No.25370 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.25370 of 2023
and WMP.No.24776 of 2020**

J.Mathew

....Petitioner

Vs

The Management
Akkamalai Estate,
Peria Karamalai Tea Produce and Co. Ltd.,
Akkamalai Estate, Valparai.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus calling for the entire records pursuant to the award dated 13.02.2020 made in ID.No.91/2016 on the file of the Additional Labour Court, Coimbatore, quash the same and consequently, direct the respondent to reinstate the petitioner in service with continuity of service, full back wages and other attendant benefits.

For Petitioners : Mr.S.Saravanan

ORDER

This petition has been filed seeking to quash the impugned award dated 13.02.2020 made in ID.No.91/2016 on the file of the Additional Labour Court, Coimbatore and consequently, direct the respondent to reinstate the petitioner in



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service with continuity of service, full back wages and other attendant benefits.

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2. It is the case of the petitioner that the petitioner was working as a permanent worker in the respondent Management and his last drawn monthly wage was at Rs.8,000/-. The respondent issued a show cause notice on 23.09.2015 to the petitioner alleging that he abused one Siva, who is the co-employee and is working as Assistant Field Conductor, standing near a vadai shop, on official duty. The petitioner filed his detailed explanation to the show cause notice and the same was not satisfactory, domestic enquiry was ordered. The enquiry was conducted in biased manner. The enquiry officer did not ask the petitioner to give his statement. The EO has filed his report and based on which, the respondent Management dismissed the petitioner from service. Aggrieved over the same, the petitioner has raised an Industrial Dispute before the Labour Court and the same was dismissed vide order dated 13.02.2020. Challenging the same, the present writ petition has been filed before this Court seeking to quash the said order.k

3. The learned counsel for the petitioner submitted that the impugned award passed by the Labour Court is totally against the petitioner. The Labour Court ought to have considered that sufficient reasons had been properly



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explained by the petitioner herein, which was not considered by the Labour Court. The findings of the enquiry officer are perverse and that no prima facie case has been made out to pass an order of the dismissal against the petitioner herein. The enquiry officer has not properly considered the allegation made against the petitioner and he was not even examined any witnesses. Without considering the entire facts, the Labour Court mechanically passed the impugned award, which is not sustainable one. Hence, the learned counsel prays that this Court may allow the writ petition.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The facts of the case are not in dispute. Admittedly the petitioner was working in the respondent Management and he was drawn a monthly salary of Rs.8,000/- He was transferred from Nadumalai Estate to Akkamalai Tea Factory, for which, it is alleged that the petitioner abused one Siva, Assistant Field Conductor, who was standing near a Vadai Shop, on official duty and committed Criminal intimidation. Further, the petitioner attacked the said Siva with an umbrella, for which, the said siva sustained injuries and he made a complaint before the Management against the petitioner. Apart from that the



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said siva made a complaint before the Law Enforcing Agency on the same day.

Pursuant to which, a show cause notice has been issued to the petitioner 23.09.2015, for which, the petitioner submitted his reply on 26.09.2015. The enquiry officer has been appointed on 29.09.2015 and after conducting enquiry, a dismissal order was passed on 02.02.2016. Further, the wound certificate also obtained by the co-employee Siva from the Government Hospital and the same was marked as Ex.M7. All the facts were clearly established before the Trial court that the petitioner has attacked the co-employee Siva and sustained injuries and admitted in the hospital.

6. Based on the complaint given by the co-employee, the petitioner was placed under suspension vide proceedings dated 23.09.2015, for which, the petitioner submitted his explanation on 26.09.2015. The domestic enquiry was taken up on 30.09.2015 and the allegations made against the petitioner have clearly demonstrated before the enquiry officer and before the Labour Court by marking the documents on behalf of the respondent Management. Whereas the petitioner has not even taken any steps to examine himself or any other eyewitnesses, who were available near the Vadai shop. The petitioner did not examine any witnesses and has not marked any documentary evidences before the Labour Court, which shows that the petitioner has admitted the guilt and he



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has not cross examined any witnesses marked by the respondent Management.

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7. This Court perused the impugned order and entire documents. On perusal of the same, this Court does not find any perversity in the order passed by the Labour Court and the punishment imposed on the petitioner by the respondent Management is correct.

8. In the result, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Rli

Index: Yes/No

NCS : Yes/No

To

The Additional Labour Court, Coimbatore



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M.DHANDAPANI, J.

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