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W.P.Nos.16022, 16474 & 16475 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.16022, 16474 & 16475 of 2017

R.M.Vellaichamy	...Petitioner in W.P.No.16022 of 2017
A.Shankar	...Petitioner in W.P.No.16474 of 2017
V.Venkataraman	...Petitioner in W.P.No.16475 of 2017

Vs.

1. The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai – 600 108.
 2. The Management,
Sathyabama University,
Jeppiaar Nagar, Old Mahabalipuram Road,
Chennai – 600 119.
- ...Respondents in all W.P's.

Prayer in W.P.No.16022 of 2017: Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus after calling for the concerned records of the 1st respondent, quash the award dated 20.03.2017 passed by the 1st respondent Labour Court in I.D.No.707 of 2010 as illegal, arbitrary and contrary to law and consequently direct the 2nd respondent to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.



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Prayer in W.P.No.16474 of 2017: Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus after calling for the concerned records of the 1st respondent, quash the award dated 20.03.2017 passed by the 1st respondent Labour Court in I.D.No.705 of 2010 as illegal, arbitrary and contrary to law and consequently direct the 2nd respondent to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.

Prayer in W.P.No.16475 of 2017: Petition filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the concerned records the 1st respondent, quash the award passed by the 1st respondent Labour Court in I.D.No.706 of 2010 dated 20.03.2017 in so far as denying the relief of reinstatement with full back wage, continuity of service and all other attendant benefits as illegal, arbitrary and contrary to law and consequently direct the second respondent to reinstate the petitioner with full back wage, continuity of services and all other attendant benefits.

In all W.P's.:

For Petitioner : Mr.Balan Haridas

For Respondents : Mr.S.Ravindran, Sr.C
for Mr.P.Nehru, for R2

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.



2. These petitions are filed by the petitioners seeking to quash the orders of the 1st respondent all dated 20.3.2017 made in I.D.Nos.705 to 707 of 2010 respectively and to consequently reinstate them into the services of the 2nd respondent with back wages, continuity of service and all other attendant benefits.

3. For brevity, the petitioner in all the Writ petitions are hereinafter referred to as workmen and the 2nd respondent in all the Writ petitions is hereinafter referred to as management.

4. The facts leading to filing of these cases are as follows :

The workmen joined the services of the management as drivers and mechanic respectively in the years 1999, 2002 and 2004. As they were paid only meagre wages, to claim their legitimate rights, the employees formed a union, pursuant to which, the management started victimising the active members and office bearers of the said union. Accordingly, the workmen were placed under suspension. Thereafter, the charge memos were issued to each of the workmen and enquiries were conducted and after conclusion of the enquiries, the Enquiry Officer concerned held that the charges framed against the workmen were proved. In continuation of it, the second show



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cause notice was issued to each of the workmen, for which, the workmen gave their reply. Not satisfied with the reply submitted by the workmen, the second respondent imposed on the workmen the punishment of dismissal from service. Therefore, the workmen raised industrial disputes individually before the 1st respondent. Ultimately, the industrial disputes raised by the workmen in W.P.Nos.16022 and 16474 of 2017 came to be dismissed in entirety on the ground that the punishment imposed is proportionate to the misconduct. In so far as the industrial dispute raised by the workman in W.P.No.16475 of 2017 is concerned, the termination was set aside, however, direction was issued to the management to pay Rs.1 lakh towards compensation in lieu of reinstatement and other reliefs. Challenging the same, the workmen are before this Court.

5. Learned counsel for the workmen submitted that, though disciplinary proceedings had been initiated as against the respective workmen alleging that, they threatened the co-employees to join the union and also attacked some of the co-employees, however, the same was not true and the disciplinary proceedings were initiated by the management only with



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an ill motive to victimise the members of the union. Though the major allegation made as against the workmen herein is that, they have brought the outsiders inside the management campus and threatened and attacked the co-employees in order to join their union, however, the same was disproved during the domestic enquiry by cross examining the management witness, who have clearly deposed that the workmen did not bring the outsiders and only the co-workers were assembled in the campus. Mere assembling of co-workers will not amount to committing any misconduct and for the said act, initiating disciplinary proceedings as if it caused unrest in the management is not sustainable. Further, it is a genuine demand made by the workman, however, the 1st respondent without considering any of the said facts and without taking into consideration the cross examination of the workmen, had mechanically arrived a conclusion that the workmen have brought the outsiders to the management campus and created unrest, which is not sustainable. Even if an allegation is raised there must be a prima facie foundation to show that there was a initial guilt on the part of the workmen. In the present case, without any foundation, the Labour Court dismissed the claim of the workmen for which there is no proper material and, therefore,



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the said finding is erroneous. Accordingly, he prayed for appropriate orders.

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6. Learned Senior Counsel appearing for the management submitted that, the respondent management being an educational institution, it is the duty cast upon the management to maintain utmost discipline and sincerity in the college campus, as the same will ultimately reflect in the student's behaviour and well being as well. Thereby, the management expects the employees as well to maintain the very same level of discipline. Whiles, the workmen herein in the name of forming an union created unrest in the management campus and they forced the co-workers to join the union and as the same was refused by them, the workmen brought the outsiders inside the management campus and even one of the workman, the petitioner in W.P.No.16022 of 2017 kicked the co-employee and the same was also clearly established before the labour court and after careful perusal of all the above said facts and the depositions made, the 1st respondent labour court had rightly rejected the disputes raised the workmen in W.P.Nos.16022 and 16474 of 2017, which is perfectly in order and the same does not warrant interference of this Court. It is the further submission of the learned senior



counsel that the award of compensation of Rs.1 Lakh in favour of the the petitioner in W.P.No.16475 of 2017, in the absence of any finding that he did not involve himself in the offence is wholly unsustainable since the management had clearly established the unruly behaviour of the said workman both before the 1st respondent as well as during the domestic enquiry. Accordingly, he prayed for dismissal of these Writ petitions. He further relied upon the decision of the Apex Court in the case of **Hombe Gowda Educational Trust and another Vs. State of Karnataka and others** reported in **(2006) 1 SCC 430**. For better appreciation, the relevant paragraph is extracted hereunder:

“28. It is no doubt true, as has been contended by Mr. Bhat , in some cases, this Court may not exercise its discretionary jurisdiction under Article 136 of the Constitution of India, although it may be lawful to do so; but the circumstances mentioned by Mr. Bhat for not exercising the said jurisdiction do not appeal to us to accept the said contention.

29. Indiscipline in an educational institution should not be tolerated. Only because the Principal of the Institution had not been proceeded against, the same by itself cannot be a ground for not exercising the discretionary jurisdiction by us. It may or may not be that the Management was selectively vindictive but no Management can ignore a serious lapse on the part of a teacher whose conduct should be an example to the pupils.

30. This Court has come a long way from its earlier view



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points. The recent trend in the decisions of this Court seek to strike a balance between the earlier approach of the industrial relation wherein only the interest of the workmen was sought to be protected with the avowed object of fast industrial growth of the country. In several decisions of this Court it has been noticed that how discipline at the workplaces/ industrial undertaking received a set back. In view of the change in economic policy of the country, it may not now be proper to allow the employees to break the discipline with impunity. Our country is governed by rule of law. All actions, therefore, must be taken in accordance with law. Law declared by this Court in terms of Article 141 of the Constitution of India, as noticed in the decisions noticed supra, categorically demonstrates that the Tribunal would not normally interfere with the quantum of punishment imposed by the employers unless an appropriate case is made out therefor. The Tribunal being inferior to that of this court was bound to follow the decisions of this Court which are applicable to the fact of the present case in question. The Tribunal can neither ignore the ratio laid down by this Court nor refuse to follow the same.”

7. Heard the learned counsel on either side and perused the material documents placed on record.

8. Admittedly, the workmen herein were the employees of the 2nd respondent management and for certain alleged misconduct committed by the respective workman, the management initiated disciplinary proceedings as against them and the same ended in dismissal, which was also confirmed



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by the 1st respondent in respect of the workmen in W.P.Nos.16022 and 16474 of 2017 and awarded compensation of Rs.1 Lakh in favour of the workman in W.P.No.16475 of 2017 in lieu of reinstatement.

9. It is not disputed that the educational institutions as well as its employees should maintain 100% discipline inside the campus as their action will ultimately cause greater impact on the students as well. A perusal of the decision of the Apex Court in the case of *Hombe Gowda Educational Trust* (stated supra) relied upon by the learned Senior Counsel for the management makes it clear that, indiscipline in an educational institution should not be tolerated and the management should not ignore a serious lapse on the part of a employee, whose conduct should be an example to the pupils. The major allegation made against the workmen is that, they forced the co-workers to join the union and brought the outsiders inside the management campus and threatened the co-worker and the major allegation made as against one of the workman is that, he kicked the co-workers, thereby the disciplinary proceedings were initiated. On the whole, it is a dispute in between the employees of the respondent management.



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Undoubtedly the management has every right to initiate disciplinary proceedings as against the erred officials, for their misconduct committed that too within the management campus. However, for alleged unruly behaviour of the workmen, imposing the maximum punishment of dismissal from service is highly disproportionate. At the same time, ordering for reinstatement will cause unnecessary unrest and also give a wrong message to the other employees.

10. In view of the above, in order strike balance in between the parties, this Court, by relying on the decision of the Apex Court in *Hombe Gowda Educational Trust* (supra), while is not inclined to interfere with the order of dismissal, but at the same time, to render substantial justice, is inclined to award a compensation of Rs.3,00,000/- to each to the workmen as full quit without any further claim. The 2nd respondent management is directed to pay a sum of Rs.3,00,000/- to each of the workmen within a period of two weeks from the date of receipt of a copy of this Court.

11. With the above observations and directions, these Writ petitions



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stand disposed of. No costs.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-108.



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M.DHANDAPANI, J.

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