



W.P.No.28552 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.28552 of 2017
and
W.M.P.No.30686 of 2017**

1. The Superintending Engineer,
Mettur Electricity Distribution Circle,
Mettur Dam - 01.

2. The Executive Engineer,
Mettur Division,
Mettur Electricity Distribution Circle,
Mettur Dam - 01.

... Petitioners

Vs.

1. The Presiding Officer,
Labour Court,
Salem - 7.

2. N.Senthilkumar,
State Vice President (Central Union),
Tamil Nadu Minsaravariya Desiya Murpokku
Tholilalar Sangam,
(Reg.No.3164/CNI/2006, Affiliated No.032/2007),
V.P.K.Nagar, Mettur Dam - 1,
Salem District.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, call for the records of the first respondent in I.D.No.194 of 2014 dated 27.07.2016 and quash the same.

For Petitioners : Mr.David Sundarsingh

For Respondents : R1- Labour Court
No appearance for R2

O R D E R

The impugned award dated 27.07.2016 made in I.D.No.194 of 2014 passed by the first respondent is under challenge in the present Writ Petition.

2. The petitioners are the Management. The second respondent is the State Vice President of the Central Union of workers engaged by the petitioner Electricity Distribution Circle and the second respondent herein is representing on behalf of one Pannerselvam, who was working under the petitioner Management. While the said Pannerselvam was working as Masdoor, a disciplinary proceedings was initiated against him and based on



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the enquiry report, the charges were held to be proved and the Management has imposed a punishment of postponement of annual increment for one year without cumulative effect by order dated 15.04.2013. The second respondent challenges the same before the first respondent / Labour Court in I.D.No.194 of 2014 and the first respondent / Labour Court allowed the said I.D. by award dated 27.07.2016. Challenging the same, the petitioners have filed the present Writ Petition.

3. The learned counsel for the petitioners challenges the award on the ground that the Labour Court has failed to appreciate the documentary evidences let in by the petitioner Management and the evidences of the Board witnesses have clearly stated about the inappropriate behaviour exhibited by the delinquent workman which has led to the initiation of disciplinary proceedings. The Labour Court has also failed to appreciate the documentary evidence filed by the Board and has set aside the punishment by the impugned award. Therefore, the learned counsel for the petitioners seeks for setting aside the impugned award.



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4. Though the second respondent has been served and his name has been printed in the cause list, no one is appearing on behalf of him.

5. It is not in dispute that the punishment imposed on the delinquent workman was only stoppage of increment for one year without cumulative effect and that the said period has already been lapsed. The Labour Court has categorically held in its findings that the domestic enquiry conducted was not fair and proper as no witnesses were examined on behalf of the delinquent workman. The Labour Court has also held that the documents submitted as exhibits before it are all only with respect to the charge memo, explanation by the delinquent workman, appointment of Enquiry Officer and Enquiry Officer's report etc. The Labour Court has also held that the Management has not examined the proper witness and submitted material evidences like Medical Certificate in order to prove the major charge levelled against the petitioner therein, i.e., that the second respondent had indulged in wordy quarrel with co-employees in an inebriated condition. Thus, the Labour Court has rightly held that the



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Medical Certificate was an authentic document to prove the charge levelled against the workman. The absence of material evidence would vitiate the entire disciplinary proceedings and the subsequent punishment imposed. Therefore, this Court is of the clear view that the Labour Court has gone into the facts extensively and has rightly set aside the punishment awarded by the Management. This Court finding no merits in the Writ Petition, is inclined to dismiss the same. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.08.2023

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

vji

To
The Presiding Officer,
Labour Court,
Salem - 7.



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M.DHANDAPANI, J.

vji

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