



W.P.No.34483 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.34483 of 2018

N.Nagarajan

... Petitioner

Vs.

The Management of Gunnebu India Limited,
No.98-B, Industrial Estate,
Ambattur, Chennai - 600 098.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the Award, dated 28.06.2013 in I.D.No.441 of 2001 on the file of the I Additional Labour Court, Chennai, quash the same and consequently direct the respondent to reinstate the petitioner, with continuity of service, backwages and all other attendant benefits.

For Petitioner : Mr.Pugazhenthil for
M/s.T.Fenn Walter Associates

For Respondent : No appearance



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ORDER

The Writ petitioner joined the service as a worker under the respondent on 21.06.1984. On 17.07.1998, the respondent / Management sent a show cause notice to the petitioner, calling for explanation from the Writ petitioner on an alleged misconduct of the petitioner. In the notice, it is stated that the Writ Petitioner along with two other workers viz., Mr.John Joshi and Mr.D.Manickam came down to the portable Section of the Factory on 15.07.1998 at 9.15 a.m and threatened the House Keeping workers with dire consequences and also prevented them from discharging their work. In fact they chased them away from the welding booth in Plant -I of the Factory.

2. The Writ Petitioner submitted his explanation on 23.09.1998 denying the allegations made against him. A domestic enquiry was conducted and the enquiry officer in his report dated 12.07.1999, held that the charges framed against the petitioner are proved. Therefore, a second show cause notice dated 26.07.2000 was issued to the petitioner



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and the petitioner also submitted his reply to the Management on 07.08.2000. Thereafter, the petitioner was terminated from service by an order dated 19.08.2000. Therefore, the Writ Petitioner raised an Industrial Dispute before the Additional Commissioner of Labour-2 (Conciliation), Chennai and the concerned officer submitted his failure report on 11.04.2001. During the pendency of the same, the respondent Management changed the name of the company in 2005 as 'Gunnebu India Ltd.,'.

3. The petitioner subsequently filed a petition in I.D.No.441 of 2001 before the Presiding Officer, I Additional Labour Court, Chennai under Section 2-A(2) of the Industrial Disputes Act, 1947. After considering the evidence on record and also considering the various decisions of this Court and Hon'ble Supreme Court, the Presiding Officer, I Additional Labour Court, Chennai vide his orders, dated 28.06.2013, had held that the quantum of punishment inflicted upon the Writ Petitioner is justified and it is not disproportionate to the charge of



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misconduct. Hence, I.D.No.441 of 2001 was dismissed. Challenging the same, the petitioner filed the present Writ petition.

4. The main allegation levelled against the petitioner is that he prevented the house keeping workers from discharging their duties and also chased them away from the welding booth in Plant-I of the Factory. In the domestic enquiry, the enquiry officer in his report dated 12.07.1999 had concluded that all the charges framed against the Writ petitioner is proved. The presence of the petitioner at the time of occurrence is not at all disputed by the petitioner. The Additional Labour Court I, Chennai also analysed the Certified Standing Orders of the respondent/Management in Clauses 20 (2), 20(22) and 20(26) which clearly state that instigating any strike by a workman is illegal. The fifth Schedule of the Industrial Disputes Act, 1947 also stipulates in part-II that any workman who instigates or advises or giving active support to any strike, is deemed to be illegal. The Labour Court by a well considered order had held that the punishment inflicted upon the Workman is not disproportionate to the charges.



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5. In the circumstances, I do not see any reason to interfere with the orders passed by the Labour Court. Therefore, the Writ petition is dismissed. No costs.

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Index: Yes/No
Speaking/Non-Speaking order
vum



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R. HEMALATHA, J.

vum

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