



W.P.No.37119 of 2006

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.37119 of 2006

M.P.No.1 of 2006 &

M.P.No.1 of 2009

The Management
Moganad Group Plantations
Moganad Estage, Mangalam
Semmanatham Post
Yercaud – 636 602.

...Petitioner

Vs.

1.G.Navaneethakrishnan (Died)

2.The Labour Court,
Salem.

3.Geetha

4.Sathiyavathi

5.Nithiyavathi

6.Jayasree

...Respondents

(R3 to R6 substituted as Lrs of deceased
respondent R1 vide order dated 20.09.2021 made in
W.M.P.No.19775 of 2021 in W.P.No.37119 of 2006
by MSRJ)



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a writ, direction or order in the nature Writ of Certiorarified Mandamus or any other appropriate Writ calling for the records of the 2nd respondent Labour Court, Salem in I.D.No.281/1999 on its file and to quash the Award dated 17.1.2006 made therein and consequently to uphold the Order dated 11.08.1998 dismissing the 1st respondent from the service of the petitioner.

For Petitioner : Mr.T.M.Hariharan

For Respondents : No appearance

ORDER

The Writ Petition is filed challenging the award of the second respondent Labour Court, Salem in I.D.No.281 of 1999 dated 17.01.2006.

2.The brief facts leading to the present Writ Petition are that one Navaneethakrishnan was a workman under the petitioner management. While so, on 14.10.1997, there was a confrontation by the workman to the management staff demanding extension of his leave and in the altercation he not only threatened but also attacked the said Mohan Rajesh and caused injuries to him. A Police complaint was also given and the case was pending investigation. Under these circumstances, with reference to the said mis-conduct a charge memo was issued



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to the workman and domestic enquiry was held. Ultimately the workman was dismissed from service.

3. Workman raised a dispute in the present I.D.No.281 of 1999. Initially, the Labour Court found that the procedure adopted in the domestic enquiry was not fair and thereafter both parties were permitted to let in evidence on the merits of the charges before the Labour Court. Workman was examined as W.M.1 and Ex.W1 to W6 were marked on behalf of the workman. On behalf of the management one Mohan Rajesh was examined as M.W.1 and Ex.M1 to M18 were marked. The Labour Court firstly found that the criminal proceedings were pending and there was no any conviction. Secondly, it found that there was only oral evidence regarding the incident and there is no document to prove the same and held that the charges has not proved. But however, instead of reinstatement with backwages awarded compensation of Rs.40,670/-. Aggrieved by which the Management is before this Court.

4. The learned counsel appearing on behalf of the petitioner would submit that the entire incident was documented. The Police complaint was also marked before the trial Court. Investigation was pending. The M.W.1 is the person who is



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the injured witness and he has got into the box and spoken about the incident.

Therefore, the finding of the Labour Court, that there is no documentary evidence with reference to the incident and that the charge is not proved or perverse. He would further submit that as a matter of fact, the trial proceeded before the criminal court and also ended in a conviction.

5. Pending the Writ Petition the original workman died and his legal heirs are impleaded as respondents 3 to 6. When the matter was being argued before this Court there was no representation by the learned counsel appearing on behalf of respondents 3 to 6. Therefore, this Court adjourned the matter under the caption "for orders" today. Today also there is no representation on behalf of the respondents 3 to 6.

6. On a perusal though it is right that the Labour Court can go into the merits of the charge, it can be seen that the charge leveled against the workman is that he indulged in threatening and physical violence. Injured witness is examined and the Police complaint which was lodged has also marked. Under these circumstances, the finding of the Labour Court that there is no documentary evidence to prove the incident is perverse and therefore this Court is unable to accept the finding of the



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Labour Court that the charges are not proved. The level of proof which is required in the departmental enquiry is preponderance of probability. As a matter of fact, it is also brought to the notice of this Court that by a judgment dated 19.03.2015 in C.C.No.79 of 2005, the said workman was also convicted and imposed with punishment of three years of rigorous imprisonment and also fine for the various offences.

7.Be that as it may, even though the criminal proceedings did not conclude as on date of the enquiry by the Labour Court, when the injured witness have been examined as M.W.1. and the Police complaint is also marked as a document, the finding of the Labour Court that the charge is not proved is perverse and cannot be agreed upon by this Court.

8.In view there of, the Writ Petition deserves to be allowed. Accordingly, this Writ Petition in W.P.No.37119 of 2006 has been allowed. Award passed by the second respondent Labour Court, Salem, in I.D.No 281 of 1999 dated 17.01.2006 stands quashed. No costs. Consequently, connected miscellaneous petitions are closed.

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Neutral citation : Yes/No

D.BHARATHA CHAKRAVARTHY, J.,

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To
The Labour Court,
Salem.

W.P.No.37119 of 2006
M.P.No.1 of 2006 &
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