



W.P.No.16032 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.16032 of 2015
and M.P.No.1 of 2015 and W.M.P.No.28716 of 2016

R.Pounraj

.. **Petitioner**

Vs.

1.Union of India
Rep.by the Asst. Superintendent of Post Offices,
Madurai South Sub-Division,
Madurai – 625 002.

2.The Senior Superintendent of Post Offices,
Madurai Division,
Madurai – 625 002.

3.The Presiding Officer,
Central Government Industrial Tribunal
-cum-Labour Court
Chennai – 600 006.

.. **Respondents**

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent – Tribunal which is made in I.D.No.1 of 2002 dated 10.11.2014 and



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quash the same, consequent to direct the respondents 1 & 2 to reinstate the petitioner into service with all consequential benefits.

For the Petitioner : Mr.R.Malaichamy
For the Respondents : Mrs.M.E.Sarashwathy
Senior Panel Counsel for RR1 &2
For R3- No appearance

ORDER

This Writ Petition is filed challenging the award of the Labour Court dated 10.11.2014 made in I.D.No.1 of 2002.

2. The petitioner was engaged by the respondent – Department as an extra Departmental Packer with effect from 12.12.1981. While so, in the year 1988, when he was placed in the Postal Training Centre, Sub Office, Madurai, a charge memorandum dated 04.06.1988 was issued against the petitioner, containing one charge. The charge against the Workman is that on 13.09.1987, when he was entrusted to pay a high value Money Order Number 4787 dated 28.09.1987, for a sum of Rs.1,583/-, he defrauded by returning the slip with forged signatures and thereby failed to maintain absolute integrity.

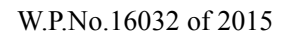


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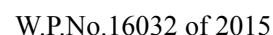
3. On the said charge, domestic enquiry was conducted and by an order dated 09.01.1989, the petitioner was dismissed from service. On 13.06.1989, the departmental appeal was rejected and the punishment was confirmed. Earlier, the petitioner chose to file an O.A.No.738 of 1990, which was allowed on technical grounds and the matter was remitted back for conduct of fresh enquiry. Thereafter, the enquiry report dated 02.01.1989 was again furnished to the petitioner and second show cause notice was issued on 27.03.1991. The petitioner submitted his explanation on 29.04.1991 and after considering the same, once again an order of dismissal was passed on 30.09.1991. Aggrieved by the same, the petitioner raised a dispute. Upon the conciliation being failed, the petitioner filed Claim Petition which was taken on file as I.D.No.1 of 2002.

4. The Claim Petition was resisted by the respondent – Department. Thereafter, the Labor Court considered the case of the parties. Originally, the Management was set as *exparte* and upon filing of a Writ Petition, this Court on condition to deposit the entire wages payable, the *exparte* award was set aside



5. Mr.R.Malaichamy, learned counsel for the petitioner and Mrs.Me.Sarashwathy, the learned Senior Panel Counsel for the respondents 1 and 2 – Department.

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7. It is the case of the defence that the entrustment was with the further instruction to hand over the amount to the said *Kumarasamy*. The Workman examined himself in the enquiry and has stated so. Therefore, the Management did not thought it fit to lay any charge as against the said *Kumarasamy* nor examined him. Secondly, he would submit that it is the other limb of the charge that the petitioner only forged the signature of the said *Natarajan*. When the said *Natrajan* has been examined, his version is taken as true and the petitioner's version is taken as false. When the petitioner has examined himself as a witness and has deposed that he did not forge the signature of the *Natarajan*, the least thing which could have been done by the Management is to send the signature for expert verification to compare it firstly whether it is the signature of *Natarajan* or not.



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8. Secondly, if it is not the signature of *Natarajan*, then the petitioner-*Pounraj* or some other person who has forged the signature. Without the said exercise being carried out, the charge cannot be held to be proved. In this context, the learned counsel would draw the attention of the answers given by the witness namely – Ponmani on behalf of the Management. She has clearly stated that she was not sure whether it is the petitioner – Workman who has forged the signature or not. The other answers given by her in the cross examination is also pointed out. The learned counsel thus pointing out the various answers which are elicited and also the findings in the enquiry report would submit that in this case, the charge not at all proved against the Workman and as such the Labour Court ought to have interfered with the matter.

9. Per *contra*, *Mrs.Me.Sarashwathy*, the learned Senior Panel Counsel for the Department would submit in this case, domestic enquiry has been duly conducted. The value of the money order at the relevant period was treated as a high value and it was the trainees monthly salary. The money order was meant to



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be delivered to one *Natarajan*, he was examined as witness in the enquiry. He has denied that the money order being delivered to him and therefore, the petitioner to whom the money order was entrusted only had forged the signature and misappropriated the money. Therefore, the charge stood proved. The Enquiry Officer as well as the disciplinary authority considered the evidence in detail and thereafter the punishment has been imposed. The Labour Court has also re-appraised the evidence and come to a conclusion. Therefore, she would submit that the Writ Petition is liable to be dismissed.

10. I have considered the rival submissions made on either side and perused the material records of the case.

11. Firstly, in this case, it is not the contention of the parties that the procedure made in the enquiry is not fair and proper. From the claim petition, filed by the Workman it is clear that the only ground which is raised by the Workman is that the charge itself is vague and is not proved in the enquiry. The same was resisted by filing a counter statement. The Labour Court therefore,



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took up the exercise of finding out whether there is ample evidence before the enquiry to prove the charge. The Labour Court considered the evidence of each one of the witnesses examined during the enquiry in detail. The Labour Court after finding that the Sub-Post Master has deposed that the Money Order has been entrusted only to the petitioner and the payee namely - *Natarajan* who was examined as S.W.4 had categorically denied receiving the payment or making signatures in the Money Order, has held that the charge is proved in the enquiry. It is the further conclusion that the standard of proof that is required in the departmental enquiry is that of preponderance of probability and is not proof beyond doubt. The Labour Court also considered that the punishment is proportionate to that of the charge and dismissed the claim.

12. Firstly, it can be seen that the standard of proof is that of preponderance of probability and not proof beyond doubt. Therefore, it need not be proved beyond doubt that it is only the petitioner, who forged the signature by comparing the signature through an expert. From the evidence on record, it can be seen that the amount was entrusted to the petitioner and then, the ultimate



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payee had denied the receipt of the amount. It is the case of the petitioner – Workman that the allegation against him that the Money and the Money Order was entrusted only to him to deliver, is wrong and that he was only directed to entrust a sum of Rs.30,000/- as well as the money order to one *Kumarasamy* and he has entrusted the same to one *Kumarasamy*. Therefore, it is for him who have proved the said fact by examining the said *Kumarasamy* or leading such evidence to point out the same. Except for *ipse dixit*, he did not do anything to prove that the direction was only to entrust the amount to one *Kumarasamy* and therefore, the same was considered by the domestic enquiry officer as well as the disciplinary authority and the Labour Court, while coming to a conclusion that the charge against him is proved. I do not see the said finding as perverse or without evidence. Therefore, the matter cannot be interfered with, only on the ground that the signature was not compared. It is for the Management to prove the charge in any manner whatsoever as it deems fit.

13. In this case, *prima facie* it has let in evidence of S.W.1 to 4 and marked the documents to prove the charge to the level of preponderance of probability



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which has been accepted by the domestic enquiry officer as well as the Labour Court and I do not see any ground whatsoever to interfere in the findings of the Labour Court and accordingly, finding no merits, this Writ Petition is dismissed. It goes without saying that the Department will be entitled to withdraw the sum which is deposited by it before the Labour Court. No costs. Consequently, the connected miscellaneous petitions are closed.

29.11.2024

Neutral Citation : No

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To

1.The Asst. Superintendent of Post Offices,
Union of India,
Madurai South Sub-Division,
Madurai – 625 002.

2.The Senior Superintendent of Post Offices,
Madurai Division,
Madurai – 625 002.

3.The Presiding Officer,
Central Government Industrial Tribunal
-cum-Labour Court
Chennai – 600 006.



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D.BHARATHA CHAKRAVARTHY, J.,

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