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W.P.No. 25315 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 25315 of 2010

V. Susila

... Petitioner

Vs.

1. The Presiding Officer,  
Labour Court,  
Coimbatore.

2. The Management,  
Sri Venkatalakshmi Spinners (P) Limited,  
Anthiur, Palaikanara Post,  
Udumalai Pettaiah,  
Coimbatore – 642 122.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling records from the first respondent relating to the impugned award dated 30.12.2003 in I.D.No.349 of 1998 and quash the same and direct the second respondent management to reinstate the petitioner in service with back wages, continuity of service and all other attended benefits.

For Petitioner : Mr.V.A.Pratheep Kumar  
for Mr.R.Rajaram

For R1 : Labour Court  
For R2 : Mr.G.Anandakrishnan



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## **ORDER**

**WEB COPY** This writ petition is filed challenging the award of the first respondent Labour Court dated 30.12.2003 in I.D.No.349 of 1998 and to quash the same and consequently direct the respondent to reinstate the petitioner into service.

2. On a perusal of the records, it can be seen that the petitioner was a workmen in the second respondent Management being a fitter. While so, charges were framed against the petitioner of insubordination, giving lesser production than the output, unauthorized absence and misbehaviour with the superior officers and threatening them. Thereafter, domestic inquiry was conducted and by an order dated 24.03.1997, the petitioner's service was terminated. Aggrieved by the same, the petitioner raised a dispute and upon failure of conciliation, the matter was taken up before the Labour Court in I.D.No. 349 of 1998.

3. Initially, with reference to the fairness of domestic enquiry, an order was passed by the Labour Court holding that the procedure adopted is fair and proper. Further, the Labour Court examined the issue with reference to the merits of the charges and also proportionality of punishment in exercise of power under Section 11A of the Industrial Disputes Act. In the further enquiry, there was no evidence which was let in on behalf of the workmen.



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On behalf of the Management, the documents M1 to M28 were marked by consent, which were the records, witness statements and other proceedings of the entire disciplinary enquiry. After appreciating the same, the Labour Court concluded that the charges were duly proved in the enquiry and considering the facts and circumstances held that it cannot be said that the punishment is disproportionate to the charges levelled and rejected the claim of the workmen by an Award dated 30.12.2003. Thereafter, belatedly after a period of seven years, this writ petition is filed in the year 2010 challenging the said Award.

4. It is seen that the primary contention in the writ petition is that the Labour Court failed to see that the entire exercise was by way of victimization since the petitioner was involved in trade union activities. Secondly, the Labour Court ought not to have held that the act of the workmen in giving lesser production as a serious charge warranting punishment.

5. Per Contra, the learned counsel appearing for the respondents would submit that apart from the other charges, there are charges of insubordination and threatening the superiors also. This apart the petitioner was also



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unauthorizedly absent from work. There has been previous showcase notices which have been issued and the past conduct is also taken into consideration.

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

7. The workmen who was dismissed in the year 1997, raised a dispute in the year 1998, which was rejected by the Industrial Tribunal in the year 2003. While the writ petition is filed in the year 2010, there is no explanation whatsoever which is contained in the affidavit for the belated filing of the writ petition after seven years.

8. Further, even considering the case on merits, already by a detailed preliminary award, the fairness of the enquiry has been upheld by the Labour Court which is not challenged along with the final award which is passed. Therefore, the only question which has to be considered by the Labour Court was whether or not the findings of the disciplinary enquiry was perverse and whether there was enough materials on record. The second question which was to be considered by the Labour Court is that whether the punishment of dismissal is warranted in the facts and circumstances of the case.



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9. On a perusal of the Award of the Labour Court, it can be seen that the Labour Court has applied its mind and considered the evidence in detail which is adduced in the form of Exhibit M1 to M28 and has come to the conclusion that it cannot be said that the findings of the disciplinary enquiry be deemed as perverse and the charges are held to be proved after due evidence. Secondly, it also came to the conclusion that on consideration of charges, this is not a case where the punishment is grossly disproportionate or the one which shocks the conscience of the Court so as to interfere with reference to the proportionality of punishment also. That being the situation, on consideration of overall facts and circumstances of the case, I am of the view that the Award of the Labour Court seems to be fair and proper and does not call for any interference by this Court.

10. Accordingly, finding no merits, the writ petition stands dismissed.

No costs.

**11.11.2024**

Neutral Citation: No  
nsl



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**D.BHARATHA CHAKRAVARTHY, J.**

nsI

To

The Presiding Officer,  
Labour Court,  
Coimbatore.

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**11.11.2024**

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