



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

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THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.3197 of 2020
and
W.M.P.No.3710 of 2020

The Management of
Comstar Automotive Technology India Pvt. Ltd.,
Keelkaranai, Mealrosapuram Post,
Maraimalainagar, Chengalpattu,
Kancheepuram District.
Rep. by its Deputy Manager,
A.Sadhick

... Petitioner

Vs.

V.Manikandan

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records and quash the Award dated 03.01.2020 passed in I.D.No.783/2018 by the Presiding Officer, Labour Court, Kancheepuram.

For Petitioner : Mr.A.Venkateshkumar
for M/s.Gupta and Ravi
For Respondent : No appearance



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

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ORDER

Heard Mr.A.Venkateshkumar, learned counsel for the writ petitioner. Though notice was served on the respondent and his name is also printed in the cause list, there is no representation on his side.

2.Challenge in this writ petition is made to the orders dated 03.01.2020 in I.D.No.783/2018 passed by the Labour Court, Kancheepuram.

3.The petitioner is a Multinational Company engaged in designing and manufacturing of starter motors and alternators for passenger cars and commercial vehicles. The respondent / workman was appointed by Visteon Powertrain Control Systems India Private Limited which was taken over by the petitioner Company in the year 2008. The employees then working with Visteon Powertrain Control Systems India Private Limited were transferred to the rolls of the petitioner company. On such transfer, the respondent was also transferred to the petitioner company. It is stated that the attendance record of the respondent was very poor from the beginning. On several occasions, the respondent was



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

WEB COPY

warned orally and also by issuing warning memos. On 29.12.2010, a charge sheet was issued to the petitioner listing out the various dates on which he remained absent in the past.

4. According to the petitioner Company as the acts of the respondent amounted to misconduct within the meaning of Clause 36 and 37(7) of the Certified Standing Orders, the respondent was suspended from service pending enquiry. The respondent gave his reply, but since it was unsatisfactory, domestic enquiry was ordered. The enquiry officer submitted his report on 27.07.2011 holding that the charges framed against the respondent were proved. The findings of the enquiry officer were furnished to the respondent and his remarks were called for. The respondent gave his reply on 17.02.2012 and thereafter, second show cause notice was also issued on 22.02.2012 proposing the details of punishment, to which he replied on 12.03.2012. As the respondent's reply was found unsatisfactory, he was dismissed from service with effect from 20.03.2012. The respondent raised an Industrial Dispute in I.D.No.329/2013 before the II Additional Labour Court, Chennai. Pending the same, the respondent raised preliminary issue regarding the



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

WEB COPY

validity of the domestic enquiry conducted by the management. Meanwhile, I.D.No.329/2013 was transferred to the Labour Court, Kancheepuram and renumbered as I.D.No.783/2018. The Labour Court answered the preliminary issue in favour of the respondent. Aggrieved by the Labour Court's Award the petitioner has filed the above writ petition for the aforesaid relief.

5.The learned counsel for the petitioner submitted that the Labour Court having held that the enquiry conducted by the petitioner was fair and proper, erred in interfering with the merits of the charges in the preliminary issue stage.

6.It is seen from the records that the Labour Court held that the domestic enquiry conducted by the petitioner was fair and proper and in consonance with principles of natural justice. The Labour Court inspite of holding that the domestic enquiry was not vitiated, examined the charges framed against the respondent and held that findings of the enquiry officer in the domestic enquiry were perverse. The Labour Court answered the preliminary issue in favour of the respondent with further directions to the petitioner to prove charges against the respondent /



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

workman by adducing acceptable evidence before it.

7.In my view, the approach of the Labour Court is improper and unsustainable. The Labour Court having held that the enquiry was conducted in a fair and proper manner and in consonance with the principles of natural justice, could not have directed the management to prove the charges afresh by adducing acceptable evidence.

8.In this regard the judgment of the Hon'ble Supreme Court in *Shri Ganapati Bus Service, Thiruvvelveli v. Presiding Officer, Labour Court and Others* reported in 2001(2)SCC 602 can be usefully referred to.

The Hon'ble Supreme Court in the said judgment stated as follows :

"7. We see no substance in this submission. In all the three cases the Labour Court had found that the enquiry was proper and valid. It is for other reasons, set out hereinafter, that the Labour Court had directed reinstatement. In that event, in all the three cases the appellants being given opportunity to lead evidence after such a finding before the Labour Court did not arise. In our view, whether or not the enquiry was valid and proper though not tried as a preliminary issue has not prejudiced the appellants in any manner. If the answer to that



W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

WEB COPY

question had been in the negative, perhaps an occasion to consider the question raised by the learned counsel would have arisen."

The Labour Court having found that the enquiry was fair and proper could not direct the Management to adduce fresh evidence.

9. In view of the above discussions, the Award of the Labour Court is unsustainable and hence, it is set aside. This writ petition is allowed. There shall be no order as to costs. Consequently, connected writ miscellaneous petition is closed.

23.01.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

N.MALA,J.

mtl

W.P.No.3197 of 2020
and W.M.P.No.3710 of 2020

23.01.2024