



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.02.2024

PRONOUNCED ON : 29.04.2024

CORAM

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

W.P.No.3177 of 2011

N.Ramakrishnan

...

Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Cuddalore.

2.The Management,
Chemplast Sanmar Ltd.
IAP. Unit - II, Kadampuliyur,
Cuddalore District.

...

Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records of the Award dated 29.03.2010 made in I.D.No.123 of 2000 on the file of the 1st respondent herein and quash the same insofar as it is against the petitioner.

For Petitioner : Mr.T.Dhanyakumar
For R1 : Court
For R2 : Mr.Sai Prasad
for M/s.Sai Raaj Associates

W.P.Nos.25501 & 25502 of 2010



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

The Management of Chemplast Sanmar Ltd.
Industrial Alcohol Plant - II,
Kadampuliyur,
Cuddalore District.

...

Petitioner in both W.Ps

Vs.

1.The Presiding Officer,
Labour Court, Cuddalore.

2.N.Ramakrishnan

...

Respondents in both W.Ps

COMMON PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in I.D.No.123 of 2000 and quash its Award/order dated 29.03.2010 & 25.02.2003 respectively.

In both W.Ps.

For Petitioner	: Mr.Sai Prasad for M/s.Sai Raaj Associates
For R1	: Court
For R2	: Mr.T.Dhanyakumar

COMMON ORDER

These Writ Petitions have been filed to call for the records of the first respondent in I.D.No.123 of 2000 and quash its Award/order dated 29.03.2010 & 25.02.2003 respectively.

2.The second respondent in W.P.Nos.25501 & 25502 of 2010 and



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

petitioner in W.P.No.3177 of 2011 was working in the Management, Chemplast Sanmar Ltd., Industrial Alcohol Plant – II. He was served with charged sheet on 07.01.1999 alleging that when he was in duty on 02.06.1999, from 2 p.m. to 10 p.m., in charge of functioning of the boiler, he has not performed his duty properly. He did not monitor the functioning of the boiler, especially, the dropping of boiler's pressure resulting in causing damage to the boiler. As a result, the Management faced loss worth of several lakhs. A departmental enquiry was conducted and the Enquiry Officer submitted an enquiry report, dated 13.12.1999, stating that the charges against the workman was proved. Thereafter, he was issued with second show cause notice dated 31.12.1999. After receiving his explanation dated 20.01.2000, he was dismissed from service on 11.02.2000.

3.Challenging his dismissal, the workman raised an industrial dispute before the conciliation officer. The conciliation resulted in failure and therefore, he took up the matter before the first respondent Labour Court. The main grounds of attack against his dismissal are that (i) he was not furnished with the copies of the important documents and therefore, he could not set up proper defence. (ii) The boiler was malfunctioning from morning itself and



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

the records in that regard were not produced for his perusal. (iii) The Enquiry Officer was below the rank of M.W.2, the Management witness. Therefore, there is no possibility of the Enquiry Officer taking an independent decision and he cannot take any decision against the evidence given by M.W.2. Therefore, the Enquiry Officer recorded the findings of guilty against the charges framed against the petitioner. (iv) When the boiler was operated by many, singling out the petitioner for the fault is nothing but an attempt to make him as a scape goat. (v) The Engineer was responsible for any defect of the boiler, but the Management did not take any action against the Engineer. (vi) There was a problem in the boiler even in the prior shift, but that was overlooked. (vii) The Engineer was not deliberately examined. (viii) Petitioner had unblemished records of service of 21 years, but that was not considered prior to imposing of punishment.

4. Since the workman challenged the proper conduct of the enquiry, a preliminary hearing was held with regard to the conduct of the enquiry and the learned Presiding Officer, Labour Court, primarily on the ground that the subordinate officer of M.W.2 was made as an Enquiry Officer and there is a possibility of not providing a proper and fair enquiry to the petitioner, set aside



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

the enquiry in his preliminary findings on 25.02.2003 and proceeded to hear the parties with regard to the punishment imposed. Both parties were given opportunities before the Labour Court for producing oral and documentary evidence. After recording the evidence, the learned Presiding Officer, Labour Court, passed the final award on 29.03.2010 holding that the workman cannot be held responsible for the fault of the boiler. Therefore, the workman is entitled for reinstatement with continuity of service, but with 50% of backwages.

5. Against the said order, the Management filed W.P.Nos.25502 of 2010 challenging the preliminary award and W.P.No.25501 of 2010 challenging the final award passed in I.D.No.123 of 2000. The workman filed W.P.No.3177 of 2011 against the refusal of full backwages.

6. The learned counsel for the Management submitted that the findings of the learned Presiding Officer, Labour Court that the important witness is superior to the Enquiry Officer and therefore, the findings of the Enquiry Officer cannot be proper and genuine cannot be accepted. In support of this submission, he produced the judgments in **(i) GMS Prabhu Vs. Canara Bank**



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

reported in **2001 III LLJ 354 Kant.** (ii) **Workmen of Balmadies Estate Vs.**

Management Balmadies Estate and Ors. reported in **2008 I LLJ 673.** (iii)

Usha Breco Mazdoor Sangh Vs. Management of Usha Breco Ltd. and Anr.

reported in **2008 II LLJ 945** and (iv) **State Bank of Bikaner and Jaipur Vs.**

Nemi Chand Nalwaya reported in **2011 IV SCC 584** for the proposition that

when the findings of the Enquiry Officer is in accordance with law, there is no

need to disturb the findings. The relevant portions of the aforesaid judgments

are extracted hereunder:

(i) GMS Prabhu Vs. Canara Bank reported in **2001 III LLJ 354 Kant.**

Taking into consideration the entire evidence on record, the enquiry officer has found that the delinquent officer is guilty of the charges. Thirdly, as observed by the Supreme Court in [Tulasi Gramina Banks](#) case, since the final decision is to be taken by the disciplinary authority, it cannot be said that any injustice has been caused to be delinquent officer. Lastly, merely because one of the witnesses of the management before the enquiry officer was of a superior rank, it cannot be said that his findings would be necessarily influenced against the petitioner. The onus of proving bias is on the delinquent officer and this allegation should be



clearly proved if the enquiry proceedings are sought to be set aside. Petitioner has not discharged his burden. Therefore, I do not find any merit in the first contention canvassed by the learned counsel for the petitioner. Accordingly, it is rejected.

(ii) Workmen of Balmadies Estate Vs. Management Balmadies Estate and Ors. reported in **2008 I LLJ 673.**

8. It is fairly well settled now that in view of the wide power of the Labour Court it can, in an appropriate case, consider the evidence which has been considered by the domestic Tribunal and in a given case on such consideration arrive at a conclusion different from the one arrived at by the Domestic Tribunal. The assessment of evidence in a domestic enquiry is not required to be made by applying the same yardstick as a Civil Court could do when a lis is brought before it. [The Indian Evidence Act, 1872](#) (in short the [Evidence Act](#)) is not applicable to the proceeding in a domestic enquiry so far as the domestic enquiries are concerned, though principles of fairness are to apply. It is also fairly well settled that in a domestic enquiry guilt may not be established beyond reasonable doubt and the proof of misconduct would be sufficient. In a domestic enquiry all materials



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

which are logically probative including hearsay evidence can be acted upon provided it has a reasonable nexus and credibility.

(iii) Usha Breco Mazdoor Sangh Vs. Management of Usha Breco Ltd. and Anr. reported in **2008 II LLJ 945.**

28. It is one thing to say that the finding of an Enquiry Officer is perverse or betrays the well-known doctrine of proportionality but it is another thing to say that only because two views are possible, the Labour Court shall interfere therewith. In other words, it is one thing to say that on the basis of the materials on record, the Labour Court comes to a conclusion that a verdict of guilt has been arrived at by the Enquiry Officer where the materials suggested otherwise but it is another thing to say that such a verdict was also a possible view.

For the aforementioned purpose, certain basic principles must be kept in mind, viz., even the first appellate court although is entitled to interfere with the findings of a Trial Court in terms of Section 96 of the Code of Civil Procedure, ordinarily a finding of fact arrived at on the basis of the oral evidence by the Trial Court should be accepted.

In Chinthamani Ammal v. Nandagopal Gounder [(2007) 4 SCC 163], this Court observed:



"18. Furthermore, when the learned trial Judge arrived at a finding on the basis of appreciation of oral evidence, the first appellate court could have reversed the same only on assigning sufficient reasons therefor. Save and except the said statement of DW 2, the learned Judge did not consider any other materials brought on record by the parties.

19. In Madholal Sindhu v. Official Assignee of Bombay it was observed: (AIR p. 30, para 21) "It is true that a judge of first instance can never be treated as infalliable in determining on which side the truth lies and like other tribunals he may go wrong on questions of fact, but on such matters if the evidence as a whole can reasonably be regarded as justifying the conclusion arrived at, the appeal court should not lightly interfere with the judgment."

29. Before a departmental proceeding, the standard of proof is not that the misconduct must be proved beyond all reasonable doubt but the standard of proof is as to whether the test of preponderance of probability has been met. The approach of the Labour Court appeared to be that the standard of proof on the Management was very high. When both the parties had adduced evidence, the Labour Court should have borne in mind that the onus of proof loses all its significance for all practical purpose.



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

(iv) State Bank of Bikaner and Jaipur Vs. Nemi Chand Nalwaya reported in

2011 IV SCC 584.

6. *It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record. Courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, malafide or based on extraneous considerations.*

7. He further submitted that the workman had not raised the plea of



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

victimization and there is no proof filed to show that the workman was victimized. The workman had not stopped the boiler immediately on noticing the variation in the water level and boiler pressure. He had not done that and he has taken his own time to report the matter to the Engineer. The delay in reporting to the Engineer had resulted in causing damage to the boiler. The scope of interference by the Labour Court is very limited. However, the Labour Court re-opened the case and reassessed the evidence given before the Enquiry Officer to record his findings. That is impermissible under law. The preliminary as well as the final award passed by the Labour Court are not in tune with the well settled proposition of law. The conclusion reached is also not based on evidence, but based on surmises and conjectures.

8.The learned counsel for the workman submitted that the workman was not responsible for the fault in the boiler. The issues faced while operating the boiler had been reported to the appropriate authority then and there. But the authority had not taken proper steps for addressing those issues. Even on 02.06.1999, during the first shift, there was some problem in operating the boiler. The problem continued even after the petitioner had taken charge. Immediately on coming to know about the variation in boiler pressure and



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

water level, the workman intimated to the Engineer. The Engineer had taken his own time for stopping the boiler. The workman cannot be made responsible for the fault. The Enquiry Officer was a subordinate to M.W.2, Management witness. The workman was denied the copies of the important documents with regard to the maintenance of the boiler. The important witness like Engineer was not examined. Only after finding that no proper enquiry was conducted, report of the Enquiry Officer was set aside and a fresh enquiry was conducted by the Labour Court. Even in the fresh enquiry, the Management was not able to prove that the workman was responsible for the repair in the boiler. Therefore, he was exonerated from the charges. Instead of awarding full backwages on his reinstatement, the Labour Court had awarded only 50% of the backwages. Thus, he prayed for dismissal of the petition filed by the Management and for allowing his petition.

9.The learned counsel for the workman relied on the following judgments for the proposition that the order does not require interference when perversity is not made out.

(i) Managing Director, Brakes India Limited Vs. S.Packiaraj and another reported in ***(2006) 1 MLJ 233.***

18. Unfortunately, learned single Judge,



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

unmindful of the settled legal position and the findings and the reasoning given by the Assistant Commissioner of Labour, has straightaway gone into the oral and documentary evidence and embarked upon the appreciation of evidence adduced by the parties and observed that the evidence adduced by the Management is unbelievable. The approach of the learned single Judge is wholly erroneous and beyond the scope of his jurisdiction under [Article 226](#). It is trite law that under [Article 226](#), High Court cannot go into the disputed questions of fact.

(ii) Management, Malaysian Airlines, Karumuttu Centre, Chennai Vs. The Presiding Officer, Principal Labour Court, Chennai and another reported in ***2011 (2) CTC 245***.

7.The learned Counsel for the Appellant is not in a position to point out any infirmity in the order of the Labour Court so as to hold that the order of the Labour Court is perverse. It is the settled law that the power of this Court under Article 226 of the Constitution of India is very limited and it is not for the Writ Court to convert itself into a Court of regular Appeal or Revision so as to re-appreciate the entire evidence let in before the Labour Court. If only, it is established that the findings of the Labour Court is



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

perverse, inasmuch as the same is based on no evidence or no reasonable man would have come to such a decision, it is not at all permissible in law to interfere with the said finding of the Labour Court in exercise of the power under Article 226 of the Constitution of India.

10. Considered the rival submissions and perused the records.

11. From the records produced and submissions made, it is not in dispute that the enquiry was held by a person below the rank of M.W.2. Relying on the judgment in ***V. Abusali vs The Commandant And Ors.*** reported in **1995 1 LLJ 547**, the learned Presiding Officer, Labour Court, came to the conclusion that when the Enquiry Officer was below the rank of the complainant, there is no possibility of conducting proper and fair enquiry. Applying the principles laid down in the judgment, the learned Presiding Officer found that the enquiry was not properly and fairly conducted in this case.

12. Thereafter, parties were given opportunity to produce the evidence. After considering the oral evidence and documentary evidence, the learned Presiding Officer, Labour Court, found that the workman cannot be held



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

responsible for the repair in the boiler. It is pertinent to refer to the relevant portion of the Award of the learned Presiding Officer, Labour Court, which is extracted hereunder:

Ex. M.3 is the copy of log sheet dated 2.6.99. It is a vital document. According to the respondent the boiler started at the second shift and when the petitioner attended to the second shift he noticed the defects in the working condition of the boiler. According to Ex.M.3 water level was maintained at 45% till 2.30 P.M. According to the management there was no problem in the boiler in the first shift. But Ex.M.3 is otherwise and at 8.50 A.M. the steam pressure was 15.4.kg and the booster was stopped at 10.15 A.M. Therefore problem started at 8.50 A.M. on 2.6.99. According to the evidence of M.W.1 the steam pressure should be above 19 kg. But as per Ex. M.3 at 8.50 A.M. it was 15.4.kg. below 19 kg. According to M.W.1 water level should be 50E and it should not go below 40%. As per Ex.M.3 45% water level was maintained till 2.30 ???. it was



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

stated that water level was coming down from 45% to 40% to 37%. According to the petitioner, be the steam pressure should be normally 16 kg. As per Ex.M.3 from 6.30 A.M. to 3.15 P.M. it was below 16 kg. In Ex.M.3 it is stated that at 2.30 P.M. the steam pressure was 19kg. Reture oil pressure was 14.15 kg and boiler flue gas temperature was 300°C and bio gas inlet was 2,400% at 3.15 P.M. steam pressure came down to 14.7.kg and the water level came down to 17% and boiler flue gases temperature came up to 330 °C and it was certified that the boiler was stopped at 3.20 P.M. Since the boiler steam pressure and water level could not be maintained. According to the evidence of the petitioner he came to duty at 2.00 P.M. and there was no entry at 2.00 P.M. and from 2.10 the steam pressure was reduced. In Ex.M.4 it is stated that steam pressure was low at 3.20 P.M. and steam pressure was 14 kg and the boiler was stopped at 3.20 P.?. It was further shown that at 9.30 A.M. leak was found. Ex.M.5 is the log sheet for steam



WEB COPY



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

turbine dated 2.6.99 and there is an endorsement and certified that due to boiler problem the steam turbine also stopped at 3.15P.M. The respondent did not file the boiler guide to show how water level is to be maintained. There is no receipts filed by the respondent to show the repairing of the boiler. On the respondent's side, Engineer Gurumurthi was not examined. Therefore the petitioner cannot be held responsible for repairing the boiler.

13.Thus, the findings of the learned Presiding Officer shows that there were variations in the steam pressure and water level from morning shift. However, no proper steps had been taken for addressing the issue in full measure. It appears that only a stopgap measure was taken for running the boiler in the morning shift. When the workman reported for duty in the next shift commencing from 2 p.m., the problem escalated. It cannot be stated that there is abnormal delay on the part of the workman in reporting the incident to the Engineer. He tried to resolve the issue by himself. When it was not possible, he reported the issue to the Engineer. After the Engineer came, he also made inspection of the boiler and the boiler stopped by 2.20 p.m. In all



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

probability, the issue with the functioning of the boiler was in existence from morning itself and it worsened in the afternoon. It was also found that the important witness, Engineer was not examined and boiler guide was not produced to show as to how the water level should be maintained. The learned Presiding Officer, from the available evidence, analyzed the evidence and came to the conclusion that the petitioner was not responsible for the fault in the boiler.

14.It is seen from the judgment relied by the learned counsel for workman in *Management, Malaysian Airlines, Karumuttu Centre, Chennai Vs. The Presiding Officer, Principal Labour Court, Chennai and another* reported in **2011 (2) CTC 245** that power of this Court under Article 226 of the Constitution of India is very limited and it is not for the Writ Court to convert itself into a Court of regular Appeal or Revision so as to re-appreciate the entire evidence let in before the Labour Court. If only, it is established that the findings of the Labour Court is perverse, inasmuch as the same is based on no evidence or no reasonable man would have come to such a decision, it is not at all permissible in law to interfere with the said finding of the Labour Court in



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

exercise of the power under Article 226 of the Constitution of India.

WEB COPY

15.The learned Presiding Officer of the Labour Court had properly appreciated the evidence and arrived at the decision. His findings cannot be held as perverse. Thus, this Court finds no valid reason to interfere with the findings reached and Award passed by the Labour Court. The learned Presiding Officer, Labour Court, has rightly ordered reinstatement of the petitioner with continuity of service and 50% of backwages. It is just and appropriate, in the facts and circumstances of the case, and does not call for any interference.

16.Accordingly, the Award of the Labour Court is confirmed and these three Writ Petitions are dismissed. Consequently, connected Miscellaneous Petition, if any, is also closed. No costs.

sli

29.04.2024

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To:

1.The Presiding Officer,
Labour Court, Cuddalore.

19/21



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

2.The Management,
Chemplast Sanmar Ltd.
IAP. Unit - II, Kadampuliyur,
Cuddalore District.

G.CHANDRASEKHARAN, J.
sli

Pre-delivery Order in
W.P.Nos.3177 of 2011
and 25501 & 25502 of 2010



WEB COPY



W.P.Nos.3177 of 2011 and 25501 & 25502 of 2010

29.04.2024