



WEB COPY



W.P.No.9098 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

**W.P.No.9098 of 2024**  
**and**  
**W.M.P.No.10119 of 2024**

S.Vanaraj

... Petitioner

Vs.

The Management,  
Pannimedu Estate,  
M/S. TATA Coffee Ltd.,  
Pannimedu Post,  
Valparai – 642 127.

...Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari, calling for the entire records on the file of Additional Labour Court, Coimbatore, pertaining to the preliminary order dated 17.10.2023 in I.D.No.89 of 2022.

|                 |   |                 |
|-----------------|---|-----------------|
| For petitioner  | : | Mr.S.Saravanan  |
| For respondents | : | Mr.C.Gauthamraj |

### **ORDER**

This writ petition is filed challenging the impugned order dated 17.10.2023 passed by the Additional Labour Court, Coimbatore.



WEB COPY

2. One of the women employees of the respondent estate made a complaint against the petitioner to Prevention of Sexual Harassment (POSH) committee stating that the petitioner has harassed her sexually. Accordingly, the petitioner was directed to appear for enquiry before the POSH Committee on 29.04.2021 and after conclusion of the enquiry the said Committee gave a finding to the office that the petitioner has harassed the said employee. Basing on the enquiry report of the POSH Committee, the petitioner was terminated from service by the respondent management w.e.f. 27.07.2021.

3. Aggrieved by the termination the petitioner has filed I.D.No.89 of 2022 on the file of the Additional Labour Court, Coimbatore. During the course of the enquiry the Labour Court has passed preliminary award dated 17.10.2023 holding that the domestic enquiry was conducted in fair and proper manner. Aggrieved by the same, the petitioner has approached this Court by way of writ petition.

4. The Labour Court has observed in the impugned preliminary award that the principles of natural justice have been followed by the respondent management, during the course of enquiry. It is submitted by



the learned counsel for the petitioner that without following the procedure contemplated under the standing orders, only basing on the report of the POSH Committee the petitioner was summarily terminated from service. On the earlier occasion the same victim has made similar complaint against the petitioner and the petitioner was acquitted of all the charges in a criminal case by District Munsif cum judicial Magistrate, valparai (FAC) on 21.04.2023.

5. The question raised by the petitioner will be subject matter during the course of enquiry in I.D.No.89 of 2022. During the course of enquiry, on merits, the petitioner will get an opportunity to put forth before the Labour Court as to how the termination of the petitioner is not sustainable. If at all the petitioner is aggrieved of passing of the final orders, he can approach this Court both on final orders and also on preliminary award. Further, if this Court starts examining the preliminary award, it requires to consider the facts of the case which allegedly not considered by the Labour Court in the preliminary award in I.D.No.89 of 2022. The Labour Court will have to examine all the issues raised by the petitioner during the course of the enquiry under 11 A of the I.D.Act and the petitioner shall certainly raise all these issues during the course of the



enquiry.

WEB COPY

6. Further, as per the the judgment in ***Cooper Engineering Limited Vs. P.P.Mundhe***, reported in ***1975 AIR 1900***, the Hon'ble Supreme Court of India has observed as below:

*“We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the labour court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the labour court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue.. We should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the labour court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award. It will be also legitimate for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication.”*

7. In view of the above, this writ petition is disposed of directing the respondents to proceed with the enquiry in I.D.No.89 of 2022 by following the due process of law and complete the enquiry as quickly as



W.P.No.9098 of 2024

possible at any rate not later than eight months from the date of receipt of a copy of this order. Connected W.M.P. Is closed. No costs.

WEB COPY

**02.04.2024**

***vca***

Index : Yes/No  
Internet : Yes/No  
Citation : Yes/No

To:  
The Management,  
Pannimedu Estate,  
M/S. TATA Coffee Ltd.,  
Pannimedu Post,  
Valparai – 642 127.



WEB COPY



W.P.No.9098 of 2024

**DR. D.NAGARJUN,J.**

**vca**

**W.P.No.9098 of 2024  
and  
W.M.P.No.10119 of 2024**

**02.04.2024**