



W.P.No.12306 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDER RESERVED ON : 03.01.2024

ORDER PRONOUNCED ON : 06.02.2024

CORAM

THE HON'BLE MRS. JUSTICE N.MALA

W.P.No.12306 of 2019

and

WMP.No.12595 of 2019

The Management of Tablets (India) Limited,
No.179, T.H.Road,
Tondiarpet,
Chennai – 600 081,
Rep. by its
General Manager – Personnel.

...Petitioner

Vs.

1.P.Sathya

2.J.Andal

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari calling for the records of the III Additional Labour Court, Chennai in I.D.No.50 of 2006 and quash its award dated 08.05.2018.



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For Petitioner : Mr.P.Raghuraman for
M/s.T.S.Gopalan and Co.

For Respondents : Mr.K.Elango

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ORDER

This writ petition is filed to call for the records of the III Additional Labour Court, Chennai in I.D.No.50 of 2006 and quash its award dated 08.05.2018, wherein the Labour Court awarded the compensation of Rs.4,48,864/- to the legal heirs of the deceased workman in lieu of reinstatement.

2.Even during the pendency of the dispute, the deceased workman died and his legal heirs were impleaded as petitioners 2 and 3.

3.The Management will be referred to as the petitioner and the deceased workman will be referred to as the workman.



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4.The deceased workman joined the service of the petitioner on 25.04.1992 as a mechanic in the maintenance department. Whileso, the workman was charge sheeted on 18.03.2004 for an incident which took place on 17.03.2004 for a misconduct of theft and insubordination. The workman through a letter dated 22.06.2004 denied the charges levelled against him and requested the petitioner to furnish the copy of the complaint given against him. The workman further informed the petitioner that he would submit his detailed explanation on receipt of the same. Thereafter the enquiry proceedings were commenced on 04.08.2004. The enquiry officer submitted his finding on 22.01.2005 holding that the workman was guilty of charge of theft under clause 16(c) of the Certified Standing Orders. The enquiry officer absolved the workman of charge of wilful insubordination under clause 16(a) of the Certified Standing Orders. Thereafter the petitioner vide notice dated 27.01.2005 called the workman to give his comments on the findings of the enquiry officer. The workman gave his explanation on 10.03.2005 and as the same was found unsatisfactory a letter dated 28.03.2005 was issued by the management calling for explanation on the proposed punishment. The workman replied on 11.04.2005 and as the same was also found to be unsatisfactory, the dismissal order was passed



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on 05.05.2005. The deceased workman raised a dispute against the dismissal order, which was referred to and registered in I.D.No.50 of 2006.

5.Before the Labour court, both the workman as well as the petitioner did not examine any witnesses. The workman filed Ex.W1 to Ex.W28 and the Management did not file any documentary evidence before the Labour Court. The Labour Court on an appreciation of the entire evidence on record framed the following points for consideration.

1.Whether the findings of the Enquiry Officer in the domestic enquiry is supported by sufficient evidence?

2.If so, whether the punishment of dismissal is shockingly disproportionate to the charges leveled on the deceased petitioner?

3.If not, whether the punishment of dismissal has to be set aside?

4.If so, what are all the reliefs to be granted to the



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petitioner?

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6.The Labour Court answered the point Nos.1 to 3 in favour of the workman and on point No.4, the Labour Court observed that as the workman died pending proceedings, the relief of reinstatement could not be granted and hence awarded compensation in lieu of reinstatement. Aggrieved by the award of the Labour Court, the petitioner has filed the above writ petition.

7.The learned counsel for the petitioner submitted that the Labour Court ought not to have interfered with the findings of the enquiry officer just because another view was possible. The learned counsel submitted that in the domestic enquiry strict proof of evidence is not required and it is only the preponderance of probabilities that is to be considered to justify the charges levelled against the workman. Therefore the learned counsel prayed that the award of the Labour Court be set aside.

8.The learned counsel for the respondents on the other hand submitted



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that the Labour Court gave cogent reasons for interfering with the finding of the enquiry officer. The learned counsel further submitted that considering the fact that the workman died pending the dispute, the Labour Court had rightly awarded the compensation in lieu of reinstatement. The learned counsel prayed that the award of the Labour Court be confirmed.

9.I have heard both the learned counsels and I have perused the materials placed on record.

10.The undisputed facts are that the workman was appointed as a mechanic in the maintenance department of the petitioner on 25.04.1992 and at the time of his termination on 05.05.2005, he was drawing a monthly salary of Rs.5,043.42/-. It is seen that the charge against the workman was that while on second shift on 17.03.2004 at about 08.15 p.m. he concealed something in his bag and tried to remove the same from the factory. The Head Security Guard Mr.Shoukat Ali stopped him and asked him to show the parcel. Since the workman refused, the said Head Security Guard tried to grab the parcel, it was torn



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accidentally and a roll of cotton was found inside the parcel. When the security guard tried to apprehend the workman he ran away from the security gate with the parcel. Thereafter the Head Security Guard informed about the incident to the Personal Manager over phone and at about 08.50 p.m., on the same day oral enquiry was conducted by the Personal Manager and the workman admitted his guilt and pleaded for mercy. It was further stated in the charge sheet that after much persuasion by the petitioner the cotton roll was handed over to the Personal Manager. The charge sheet was therefore issued for misconduct of wilful insubordination and theft invoking clause 16 (a) (c) of the Certified Standing Orders. Whereas the petitioner claims that the workman tried to run away when the Head Security Officer tried to apprehend him, with the stolen cotton roll, it is the workman's case that he showed the bill to the Head Security Guard for having purchased the cotton roll from a nearby Medical shop which he was asked to give to his wife, who was to take it from him at the gate. In support of the workman's case, the workman examined three witnesses i.e. one Anand as W.W.1, Harikrishnan as W.W.2, Mr.J.Chandrasekar as W.W.3. According to the said witnesses they were at the gate at the time of incident for marking their out going time at the security gate



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and they witnessed the incident. According to them, the workman purchased the cotton roll from a nearby medical shop and he showed the bill for having purchased the above said cotton roll to the Head Security Guard. Though the petitioner disputed the presence of the witnesses at the scene of the incident it did not choose to cross-examine the witnesses on the same. The Labour Court therefore rightly observed that when the presence of the witnesses at the scene of the incident was denied, the petitioner ought to have produced the out going register to contradict the statement of the witnesses that they were present at the security gate for marking their out going time. The Labour Court therefore held that the evidence of the eye-witnesses examined on the side of the workman could not be discarded as there was no contra evidence on the side of the petitioner.

11.The Head Security Guard whose evidence would have been the Best evidence was not examined. The reasons given by the petitioner for not examining the Head Security Guard was rejected by the Labour court after appreciating

Ex.W16. Ex.W16 is the letter dated 26.07.2004 addressed to the workman by the

<https://www.mhc.tn.gov.in/judis>



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petitioner. In the said letter a reference was made to a communication by the Head Security Guard stating that when they questioned the workman about the cotton roll he showed them the bill for the purchase of the same and the cotton roll was not removed from the factory premises. The Labour Court looking at the discrepancies between the said letter and the charge sheet held that the contention of the management that because of the threat meted out by the workman to the Head Security Guards, they could not be examined deserved to be rejected. The Labour Court also held that as the material object (i.e.) the brand of cotton roll used by the petitioner was not recovered from the workman, an adverse inference needed to be drawn against the petitioner. For these and other reasons the Labour Court rejected the case of the petitioner. I find absolutely no infirmity or illegality on the findings of the Labour Court.

12.The learned counsel for the petitioner relied on the Judgment of the Hon'ble Supreme Court in support of his contention that the Labour Court ought not to have interfered with the findings of the enquiry officer merely because another view was possible. It is seen that the Enquiry Officer did not consider the evidence



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of the workman's witnesses and relied merely on the evidence of the management's witnesses. Therefore, the Labour Court was justified in interfering with the finding of the enquiry officer as relevant evidence was not considered. As far as the computation of the compensation is concerned, the petitioner has not disputed either the last drawn wages of the workman or the period of service and therefore I find no reason to interfere with the computation of compensation made by the Labour Court.

13. For all the above reasons, the writ petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

06.02.2024

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

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To

The III Additional Labour Court,

Chennai.



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N.MALA, J.

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**PREDELIVERY ORDER IN
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