



WEB COPY



W.A.No.2607 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A.No.2607 of 2023
and
C.M.P.No.22007 of 2023

The Management
of Prasad Film Laboratories

... Appellant / Respondents-2

Vs.

1. N. Ayyadurai,
No.4, Rajiv Gandhi Street,
Elango Nagar, Virugambakkam,
Chennai-600 092.

...Respondent/Petitioner

2. The Presiding Officer,
Principal Labour Court,
High Court Compound,
Chennai-600 104

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to
set aside the order passed in W.P. No.16911 of 2004 dated 21.02.2023.

For Appellants : Mr.P.John Zachariah for
M/s.Fox Mandal and Associates

For Respondents : Mr.S.Kumaraswamy (for R1);
Labour Court (R2).



W.A.No.2607 of 2023

J U D G E M E N T

WEB COPY

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The order dated 21.02.2023, passed in W.P.No.16911 of 2012 is under challenge in the present writ appeal.

2. The second respondent Management in the writ petition is the appellant before us. The first respondent employee was working in the Delivery Section of the appellant Management as a Receptionist/Delivery Clerk and the disciplinary proceedings were initiated against the first respondent employee. The charge framed reads as under;

“On 11.01.1995, he had delivered reel Nos.3, 7 and 8, married portion prints of M/s.Divya Jothi pictures to an unknown person and has failed to note the name of such person legibly in the gate pass issued to him. The Company later learnt that M/s.Divya Jothi pictures had not placed any order for these reels. So company sustained a loss.

A memo was issued to Mr.Ayyadurai to show cause why disciplinary action should not be taken against him for delivering reel to unknown person and for not noting clearly the name of the person who took delivery of the reels in the Gate Pass issued to him, since this is a misconduct under standing orders of the Company.”



W.A.No.2607 of 2023

3. The delinquent employee submitted his explanations denying the charges. The management, not satisfied with the explanation, appointed an Inquiry Officer, who in turn conducted an inquiry by affording opportunity to the delinquent employee. The first respondent participated in the process of inquiry and defended his case. The final inquiry report was submitted by the Inquiry Officer, holding that the charge against the employee was held as “proved”. Based on the proved charges, further objections from the delinquent employee were received and thereafter, a decision was taken and an order of dismissal from service was issued.

4. We do not find any infirmity in respect of the process adopted by the Management in consonance with the established principles. The Rules of Natural Justice has been complied with. At the first instance, it was found that the inquiry was improper. Therefore, the Labour Court has conducted an inquiry by taking evidence.

5. The findings of the Labour Court would reveal that opportunity was provided to the first respondent employee to defend his case. The evidences are appreciated by the Labour Court and the Labour Court found that the charges against the first respondent are proved.



W.A.No.2607 of 2023

6. The findings of the Labour Court are as under:

“6. Ex.W1 and W2 are the copies of gate passes. These two documents were marked on objection. These two documents were perused. These documents were not legible and unable to peruse. So Exs.W1 and W2 cannot be given much importance.

...

11. Ex.M23 is the copy of gate pass No.6978 dated 11.1.98. Ex.M24 is the copy of report. Ex.M25 is the copy of Gate pass. Ex.M26 is the copy of order relating to one pertains of print in reel No.9 regarding a Telugu Picture. Ex.M27 and M28 are the copy of orders issued on behalf of Divya Jothi Picture. Ex.M29 is the copy of gate pass to show the delivery of reel No.8, 9 and 10 of picture and sound negatives. Ex.M30 is the gate pass to who the delivery of Reel No.2 and 10. Ex.M31 is the certificate issued by the Respondent to the Regional Officer, Central Board of Film Certification, Madras. A perusal of it shows that the original copy was received by Sathyanarayana. It is evident from Ex.M32 that Divya Jothi Pictures had not ordered for print relating to Reel Nos.3,7 and 8 and have not received the same.

12. The following facts are elicited during the cross examination of MW2 on 09.06.03.



WEB COPY



W.A.No.2607 of 2023

"No order was prepared on behalf of Divya Jothi Pictures. Even then, The Petitioner delivered the order to an unknown person. No order was sent regarding Reel Nos.3,7 and 8. Some property was delivered and the property is a valuable one" "

7. Accordingly, the Labour Court passed an award, holding that the non-employment of the workmen is justified and declined to grant relief. The workmen filed a writ petition. The Writ Court has not considered the evidences recorded by the Labour Court and the findings therein. Contrarily, the Writ Court granted the relief of compensation to be paid by the Management to the tune of Rs.4,00,000/- (Rupees Four Lakhs) based on sympathy grounds. The Writ Court passed an order stating that the first respondent was aged about 68 years and served for the Management for several years.

8. This Court attempted to settle the issues between the parties. The learned counsel for the appellant would submit that the Management is facing financial constrain and not willing to compromise the issues with



W.A.No.2607 of 2023

the workmen. The Film Laboratory is not functional as of now and admittedly, it has been closed. Therefore, the Management is not ready and willing to settle the issues. Thus, we have considered the correctness of the writ order which is under challenge.

9. The learned counsel for the first respondent would oppose by stating that the Labour Court has dismissed the dispute merely on the ground of suspicion. Therefore, the Writ Court is right in granting compensation. We are unable to agree with the said contention in view of the fact that the Labour Court has conducted an inquiry independently and made a categorical finding with reference to the charge framed against the first respondent.

10. The charge against the employee was about mis-delivery of films in reel numbers 3, 7 and 8. Thus, the charges are specific in nature, which resulted in dishonest and fraudulent motive and further the Management faced certain financial loss.

11. The Writ Court has failed to consider the issues and the findings of the Labour Court. The findings of the Labour Court are candid and convincing and it is based on the evidences on record. Thus, we are



W.A.No.2607 of 2023

inclined to interfere with the order of the Writ Court since the relief of compensation was granted on misplaced sympathy.

12. Accordingly, the order dated 21.02.2023 in W.P.No.16911 of 2004 is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(K.R.S.J.,)

26.03.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

1.The Management
of Prasad Film Laboratories

2. N. Ayyadurai,
No.4, Rajiv Gandhi Street,
Elango Nagar, Virugambakkam,
Chennai-600 092.

3. The Presiding Officer,
Principal Labour Court,
High Court Compound,
Chennai-600 104



WEB COPY



W.A.No.2607 of 2023

S.M.SUBRAMANIAM, J.

and

K.RAJASEKAR, J.

(sha)

W.A.No.2607 of 2023

26.03.2024