



W.A.No.2772 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 01.04.2024

Delivered on: 29.04.2024

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

AND

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.A.No.2772 of 2023

and

W.M.P.No.23261 of 2023

The Management of Prasad Film Laboratories

... Petitioner

vs.

1. P. Moorthy

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

...

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patents to set aside the order dated 21.02.2004 in W.P.No.16496 of 2004.

For Petitioner : Mr. John Zachariah

For Respondents : Mr. R. Kumaraswamy [for R1]
: Court [for R2]



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JUDGMENT

(Judgment of the Court was made by P.DHANABAL,J.)

This Writ appeal has been filed by the appellant as against the order passed in W.P. No.16496 of 2004 on the file of this Court, wherein the 1st respondent herein has filed a Writ petition before the Writ Court as against the order passed by the Presiding Officer, Principal Labour Court, Chennai, wherein he has challenged the order of dismissal from service. The said petition was dismissed. As against the same, he filed the Writ petition and the same was allowed. As against the said order passed by the Writ Court, the present appeal has been filed.

2. The 1st respondent herein was employed as 'Developing Assistant' with the appellant company. The 1st respondent is alleged to have committed a serious misconduct of threatening and abusing his supervisor and leaving the place of work during working hours and that the same was also admitted by the 1st respondent through his letter dated 15.11.1990. For that, the appellant had issued a Charge Memo dated 05.11.1990. The 1st respondent refused to receive the same and the same



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was affixed in the Notice Board and the appellant appeared for domestic enquiry and the enquiry officer, after conducting enquiry, gave the findings that the charges as against the delinquent are proved and thereafter the 1st respondent was removed from service and the same was communicated to him vide letter 31.01.1991. The respondent challenged the said dismissal order through I.D No.251 of 1995 before the Labour court, Chennai. The Labour Court passed an award dated 31.01.1997 by dismissing the industrial dispute. The said order was challenged through W.P. No.2010 of 1998 before this Court and this Court remanded the matter to the Labour Court. Once again, the Labour Court dismissed the industrial dispute through an Award dated 16.02.2004. The respondent challenged the said award dated 16.02.2004 through a Writ petition No.16496 of 2004 and the Writ Court disposed the Writ petition vide order dated 21.02.2023 by directing the appellant to pay a sum of Rs.3,00,000/- as compensation in full quit to the 1st respondent, since the 1st respondent was aged about 68 years and the appellant Laboratory has also been closed. As against the said order, the present Writ Appeal has been filed by the appellant management.



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3. The learned counsel appearing for the appellant would contend that the 1st respondent has the habit of threatening the superior officers and abuse them with obscene words and used to leave the place of work during working hours and thereby, a charge memo was issued to him on 05.11.1990. Thereafter, enquiry was conducted and after enquiry, he was awarded punishment of dismissal from service and the same was challenged by the 1st respondent through an I.D. No.251 of 1995 and the same was dismissed and thereafter, the 1st respondent filed a Writ petition and challenged the said order and the same was allowed by directing the Labour Court to conduct a fresh enquiry and again the Labour Court dismissed the industrial dispute petition. Challenging the said order, the 1st respondent filed a Writ petition before the Writ Court and the same was allowed and ordered to pay a sum of Rs.3 lakhs.

4. The learned counsel for the appellant further submitted that the Writ Court failed to consider that the 1st respondent had committed a very serious misconduct of threatening and abused the superior officers and left the place of working during the working hours and also failed to consider that the Labour Court, two times dismissed the petition filed by the 1st



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respondent and the Writ Court failed to consider the domestic enquiry was conducted in a fair and proper manner and hence no any interference is needed. The Writ Court failed to consider that in the earlier occasion also, a charge memo was issued on the 1st respondent, the 1st respondent committed the same delinquency once again. Therefore, granting compensation to the 1st respondent was a premium granted to him for an admitted misconduct and hence he ought not to have granted compensation. Therefore, the order passed by the Writ Court is liable to be set aside by allowing this Writ appeal.

5. The learned counsel appearing for the 1st respondent would contend that the charges levelled against the delinquent are not grave charges for want of punishment of dismissal from service and the 1st respondent joined service in the appellant company in the year 1979 and the same was confirmed as a Loading Assistant Grade-II in developing department on 01.07.1981. In the year 1990, he was functioning as Secretary of the Prasad Laboratories Workers' Union and he had all along been leading the Union of Workmen in various capacities, thereby the appellant management developed ill will against the 1st respondent. On



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04.10.1990, which was a holiday, the workmen were called to attend the work and all employees including the 1st respondent turned up for work.

Due to severe headache on that day, he went to a room nearby and telephoned the reception section and requested one V. Ramamurthy to bring some tablets. At that time, one Mr. Prasad Raj, Assistant Supervisor of Chemical Department entered into the said room and vehemently protested against his presence in that room and the said Prasad Raj abused the 1st respondent, thereby losing his patience, the 1st respondent used some harsh language in retaliation. In the meantime, he was suspended from 05.11.1990. Further, he also gave regret letter before the enquiry officer on 15.11.1990 in the fond hope that the disciplinary proceedings would be ended soon and he would be taken back to duty. Hence, he has not committed any serious misconduct warranting imposition of severest punishment of dismissal from service. The Labour Court, has not considered the above said aspects and dismissed the petition filed by the 1st respondent. Against the said order, the 1st respondent filed a Writ petition in W.P. No.2010 of 1998 and the same was allowed and the matter was remanded back to the Labour Court and thereafter, once again the Labour Court dismissed the petition and thereby, the 1st respondent filed



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the present impugned Writ petition before the Writ Court. After taking into consideration the fact that the 1st respondent is aged about 68 years and by that time, the appellant laboratory was also closed, the Writ Court allowed the petition and directed to pay compensation of Rs.3 lakhs by the appellant to the 1st respondent. The Writ Court has awarded only a meagre amount and thereby, the order passed by the Writ Court is in accordance with law and hence this Writ appeal is liable to be dismissed.

6. Heard both sides'. Perused all the materials available on record.

7. In this case, the 1st respondent was working under the appellant and he was removed from service through departmental enquiry proceedings and the same was challenged before the Labour Court and the Labour Court dismissed the petition. The said dismissal order was challenged through Writ petition No.2010 of 1998 and the same was also disposed of. As per the order passed in the above Writ petition, the matter was remanded back to the Labour Court and the Labour Court once again dismissed the petition. As against the same, the 1st respondent has filed a Writ petition before the Writ Court and the Writ Court awarded compensation.



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8. The main contention of the appellant is that the delinquent was having the habit of abusing his superior officers and also threatening the officers. The same was also admitted by the 1st respondent that he entered into a room for telephoning one person to bring tablets for his head ache. At that time, the Assistant Supervisor entered into the room and abused the 1st respondent, thereby, due to the heat, he also retaliated. Therefore, the fact that there was some wordy quarrel between the Supervisor and the 1st respondent is proved. However, award of dismissal from service is not wanted for non-serious matter. It is quite nature of wordy quarrel between the employer and employee during the course of employment. For that, punishment of removal from service is too harsh. Thereby, the Writ Court after considering that the delinquent/1st respondent was aged about 68 years and the appellant laboratory was also closed before two years and considering that in order to meet the ends of justice, awarded a sum of Rs.3 lakhs and the same is also reasonable. Therefore, the order passed by the Writ Court by awarding a sum of Rs.3 lakhs as compensation is in order and warrants no interference. The punishment awarded by the appellant is disproportionate and the same is liable to be set aside. However, since the



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company was closed and the employee also attained age of 68 years, it is not possible to pass orders for reinstatement or other benefits. Thereby, the Writ Court, in order to meet ends of justice, correctly awarded compensation and the quantum of compensation is also fair. Therefore, this Court does not warrant to interfere in the order passed by the Writ Court.

9. In view of the above said discussion, the Writ appeal has no merits and deserves to be dismissed.

10. Accordingly, the Writ appeal is dismissed. No costs. The connected miscellaneous petition is closed.

(J.N.B.J.) & (P.D.B.J)
29.04.2024

mjs

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Neutral Citation: Yes/No

To

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



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J.NISHA BANU,J
and
P.DHANABAL,J

(mjs)

Pre-delivery judgment in
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