



W.A.No.451 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	09.09.2024
<i>Pronounced on</i>	20.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

W.A.No.451 of 2023
and
C.M.P.No.4239 of 2023

All India Radio and Television, National Film
 Development Corporation Employees
 Cooperative Thrift and Credit Society Ltd.,
 Rep. by its President,
 Television Center Annexe,
 Swamy Sivananda Salai, Chennai – 600 005.

Now at: 56, Anugraha Apartment,
 F3, 1st Floor, Singanna Chetty Street,
 Chintradripet, Chennai – 600 002.

... Appellant

Vs.

1.G.Vimala

2.Presiding Officer,
 Third Additional Labour Court,
 Chennai – 600 104.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, to set
 aside the order dated 29.06.2022 in W.P.No.15563 of 2010.



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For Appellant : Mr.R.Viduthalai,
Senior Advocate
for Mr.L.N. Pragasam

For R1 : Mr.L.Chandra Kumar

For R2 : Labour Court

JUDGMENT

M.S.RAMESH, J.

The first respondent herein, while working as a Clerk under the appellant/Society, was levelled with three charges under a Charge Memo dated 14.02.2002. The substance of the charges was that she reported late for duty; that she had indulged in dual employment by taking up a part-time employment elsewhere; and that she had misappropriated a sum of Rs.5,000/- by altering a receipt of a M.T.Loan. During the course of inquiry, all the three charges were held to be proved and after issuance of a second show cause notice, she was imposed with a punishment of termination from service on 15.09.2003. The first respondent had challenged the punishment before the Labour Court by raising an Industrial Dispute in I.D.No.192 of 2005 and by an Award dated 30.04.2010, the punishment of termination from service came to be confirmed. When the first respondent had challenged the Award of the Labour Court in



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W.P.No.15563 of 2010, a learned Single Judge had allowed the Writ Petition by setting aside the Award and directed the appellant herein/Society to reinstate her with continuity of service and other attendant benefits. The order of the learned Single Judge is assailed in this Intra Court Appeal by the Society.

2. The learned Senior Counsel appearing for the appellant had predominantly raised a ground that the learned Single Judge had, at length, re-appreciated the statements and evidences produced before the Labour Court, which re-appreciation is impermissible in law, in view of several decisions of the Hon'ble Supreme Court, including the cases in '**B.C. Chaturvedi Vs. Union of India & others**' reported in '**(1995) 6 SCC 749**' and '**Pravin Kumar Vs. Union of India & others**' reported in '**(2020) 9 SCC 471**', wherein, the Hon'ble Supreme Court had held that the Constitutional Courts, while exercising their powers of judicial review, cannot assume the role of an Appellate Authority and that their jurisdiction is circumscribed by limits of correcting errors of law, procedural errors leading to manifest injustice or violation of principles of natural justice. With such a submission, the learned Senior Counsel took us into the



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detailed order of the learned Single Judge dated 29.06.2022 and claimed that the Writ Court had dealt with the Labour Court's proceedings like an Appellate Authority.

3. Per contra, the learned counsel appearing for the first respondent submitted that a perusal of the order impugned in the Writ Appeal would clearly indicate that this is not a case of re-appreciation of the evidences before the Labour Court, but on the other hand, the learned Single Judge had only re-examined the statements and evidences and had come to the conclusion that there was no evidence or other basis for the Inquiry Officer to hold the charges as 'proved' and thus, had interfered with the consequential Award. He also submitted that the first respondent was terminated from service in the year 2003 and more than 20 years have lapsed, causing serious prejudice to her.

4. We have given our careful consideration to the submissions made by the respective counsels and have perused the records before us.

5. The only ground raised by the learned Senior Counsel for the

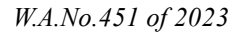


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appellant is that the learned Single Judge had assumed the role of an Appellate Authority and had re-appreciated the evidences, which is impermissible under Article 226 of the Constitution of India, while in exercise of the powers of judicial review. There cannot be any second opinion on such a submission and as a matter of fact, this ratio has been laid down in a *catena* of decisions of the Hon'ble Supreme Court, including ***B.C. Chaturvedi and Pravin Kumar's case (supra)***, as cited by the learned Senior Counsel.

6. The factual issue that arises for consideration in this Intra-Court Appeal is as to whether the learned Single Judge had exercised the powers of judicial review by re-appreciating the evidences or not?

7. With this aspect in mind, we had gone through the entire order passed in the Writ Petition. Though the learned Single Judge had elaborately discussed the case in hand and had extracted certain portions of the depositions in the disciplinary proceedings, as well as the Award of the Labour Court, we could see that ultimately what the learned Single Judge had exercised is, to ascertain as to whether there are any materials in the



8. Insofar as the first charge of reporting late to duty is concerned, the learned Single Judge, after looking into the materials in the disciplinary proceedings, had observed that an isolated incident of reporting late to duty, without prior permission, does not by itself warrant punishment of termination and cannot be treated as a major offence. Insofar as the second charge of allegation that the first respondent had taken dual employment is concerned, the learned Single Judge had looked into the materials before the Labour Court and had come to the conclusion that there was no legal evidence to support the charge, except for a series of assumptions, which are contrary to the evidences and thereby, held the second charge to be unsustainable. Likewise, insofar as the third charge of misappropriation is concerned, the learned Single Judge had once again looked into the evidences in the inquiry proceedings and held that there was no material at all to hold that the first respondent had indulged in misappropriation.

9. Now that we have found that the learned Single Judge had neither assumed the role of the Appellate Authority, nor had re-appreciated the



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evidences in both the disciplinary proceedings, as well as the Award of the Labour Court and furthermore, when the learned Single Judge had interfered with the disciplinary proceedings, as well as the Labour Court's Award, by establishing that there was no legal evidence or other evidences before the Labour Court to sustain the charges, we do not find any infirmity in the said order.

10. It is now brought to our notice by the learned counsel for the first respondent that the first respondent herein had reached the age of superannuation on 29.02.2024. As such, she would be entitled for all the service and monetary benefits, from the date of her dismissal, till the date of reaching the age of superannuation.

11. The Hon'ble Supreme Court, in *B.C. Chaturvedi and Pravin Kumar's case (supra)*, had set forth certain parameters to be exercised by the Constitutional Courts under judicial review. In both these decisions, the Hon'ble Supreme Court had held that, it would be permissible for the Constitutional Courts to interfere with an order which is not based on any legal evidence. Likewise, it has also been held therein that, when the



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punishment/penalty is shockingly disproportionate to the levelled charges, the Constitutional Courts will be well within the powers to interfere with such a punishment. In the light of these legal ratios, we do not find any infirmity or illegality in the order of the learned Single Judge dated 29.06.2022 passed in W.P.No.15563 of 2010.

12. For all the foregoing reasons, the Writ Appeal stands dismissed. In view of the dismissal of the Writ Appeal, the appellant/Society shall pass appropriate orders to the effect that the first respondent herein had notionally retired from service on 29.02.2024 and thereby, disburse all her service and monetary benefits, along with all other attendant benefits, including her retirement/pensionary benefits, within a period of four (4) weeks from the date of receipt of a copy of this judgment. No costs. Connected miscellaneous petition is closed.

[M.S.R., J] [C.K., J]
20.09.2024

Index: Yes
Speaking
Internet: Yes
Neutral Citation: Yes

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To
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The Presiding Officer,
Third Additional Labour Court,
Chennai – 600 104.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

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Pre-delivery judgment made in
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