



W.P.No.721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 27.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.721 of 2022

The Management of
India Nippon Electricals Limited,
Rep. By its Company Secretary Mr.G.Venkatram,
Hosur – Thalli Road,
Uilveeranapalli,
Hosur – 635 109.

... Petitioner

Vs

R.John Peter

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records connected with the impugned award dated 12.11.2021 passed by the Labour Court, Hosur made inn I.D. No.104 of 2019 and quash the same.

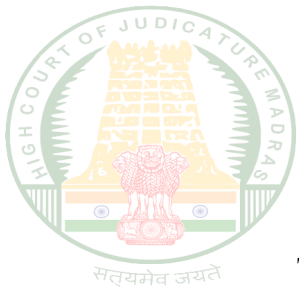
For Petitioner : Mr.Sanjay Mohan for
M/s.S.Ramasubramaniam and
Associates

For Respondents : Mr.R.Rajaram

ORDER

This writ petition has been filed challenging the order passed by the Labour Court, Hosur, in I.D.No.104 of 2019 dated 12.11.2021.

2. A short facts necessary to dispose of this writ petition are as follows:



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The petitioner company has been engaged in the manufacture of Auto Electrical Parts and the respondent was working as an operator in the petitioner establishment. The petitioner management entered into a settlement with Union called India Nippon Electricals Employees Union dated 01.08.2011 under Section 12(3) of the Industrial Dispute Act. The petitioner/management decided to improve the process to enable the operators to improve their productivity as agreed in the settlement. The Process of Improvement and Elimination of Non valuable actions, it was necessary to change the layout and therefore, the layout has been changed. After such changes, the time study was calculated theoretically which gave a result that an operator could give 1260 units of production per shift. Therefore, it was explained to the operators including the respondent and required them to produce the productivity level achieved by the PED Engineers. But the respondent and other workers had not produced 1164 units and therefore the management issued show cause notice dated 23.04.2014. The management issued show cause notice to 6 operators. Except the respondent and one Mr.Anbu, other operators assured to try and increase the production. But the respondent deliberately produced only 682 units to 722 units per shift for the period from 01.04.2014 till 22.04.2014.



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Despite the instructions given to the respondent to enhance the production he did not take any steps and put any efforts to increase the production.

2.1. The respondent did not take any efforts to increase the production. Therefore, the show cause notice was issued under Clause 19(1) and 19(5) of the certified standing orders of the company. The respondent was suspended from 05.05.2014 pending charge sheet dated 28.04.2014. Thereafter, the respondent submitted an explanation and the same was not accepted by the management and thereby, the domestic enquiry was conducted. As per the enquiry report, charges against the respondent were proved. Therefore, the second show case notice was issued to the respondent. He also gave his explanation but being not satisfied, with his explanation, the disciplinary authority passed an order by terminating the service of the respondent. Aggrieved over the same, the respondent raised an industrial dispute in I.D. No.104 of 2019, before the Labour Court and the Labour Court allowed the petition and set aside the orders passed by the disciplinary authority and directed to re-instate the respondent into service with full back wages and all



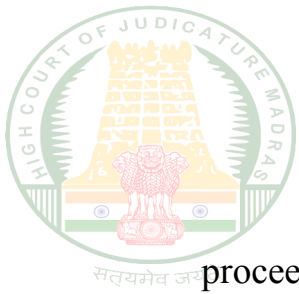
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other attendant benefits. Aggrieved by the said order, the management has preferred the present writ petition.

3. The learned counsel appearing for the petitioner would submit that the respondent along with 6 persons have not produced the specified quantity of the products and the same was explained to them. In spite of that, they have not increase the productivity and thereby, show cause notice was issued to the respondent for his misconduct and thereafter domestic enquiry was conducted and the enquiry report reveals that the charges against the respondent were proved. The management issued second show cause notice and passed an order by terminating the respondent from his service. The respondent raised an Industrial Dispute before the Labour Court and the Labour Court without considering the evidence adduced by the petitioner erroneously allowed the petition and failed to appreciate the evidence adduced and the documents marked by the management before the Labour Court.

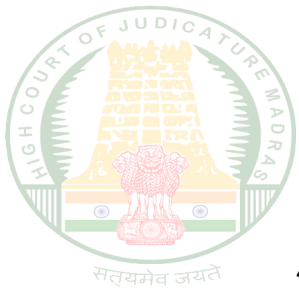
3.1. He further submitted that at the time of passing preliminary award, the Labour Court erroneously came to a conclusion that the enquiry



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proceedings was conducted by the petitioner management is fair and proper but the findings of the enquiry officer is perverse. Thereafter, the petitioner adduced the evidence but the evidence was not appreciated properly by the Labour Court. Despite the instructions given to the respondent to increase the production on the basis of engineering study, purposely he failed to increase the production. The wilful lowering down of production from previously attained level of output in employee's Department and thereby they committed the misconduct and the same was not considered by the Labour Court and the Labour Court erroneously set aside the punishment awarded by the disciplinary authority. The Labour Court failed to consider the strained relationship, irreparable loss to the petitioner's production and discipline, and potential prejudice to other employees if reinstatement were to be allowed. The findings of the Labour Court is that the management did not produce job cards to substantiate the production data, but failed to consider the output statement Ex.R.6. where the other employees are capable to give an average production of 955 units, the respondent failed to meet the revised productivity target amounts to mis-conduct. Therefore, the order passed by the Labour Court is perverse and is liable to be set aside.



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4. The learned counsel appearing for the respondent would submit that the respondent joined in the petitioner company as operator in the year 1996 and they were dismissed from service on 05.01.2016 and the 18 years of service are absolutely clean. The petitioner management transferred them to F.B.C Section, on rotation basis on 01.04.2013. Each operator, was having separate pre-heating oven and separate curing oven for working. At the beginning of the shift, the supervisors used to tell the workers as to what component should be produced and how many numbers should be produced, it is called plan. The details of the plan was entered in the job cards and the job cards will show the plan namely what was the actual number of components, that the employees were asked to produce and also how many components they have actually produced. The plan shows 1200 but actual production was 927. Therefore, there must be a plan/ order asking the respondent and other operators working in the FBC Section to produce 1164 numbers of production per shift.

4.1. There was no plan given to the respondent asking him to produce 1164 numbers per shift, hence the charge must automatically should fall to the ground and the charge of willfull disobedient of law full and reasonable



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order of superior and willful lowering down of production cannot be taken as proved. Therefore, the job cards for the relevant period assumes critical importance. The relevant period was between 23.01.2014 to 23.04.2014. The charge memo is dated 23.04.2014, The job cards for the relevant period were not at all filed. Therefore, without any documents to show that the respondent was asked to produce 1164 numbers is not acceptable.

4.2. He further submitted that the petitioner management instead of producing the job cards, for the relevant period, it has produced a computer statement for the period and the same cannot be taken as evidence unless the job cards were produced. Even as per Ex.R6, it gives only the output details and not the plan given to the operator. Unless the details of plan and output are given, the charges of the willful disobedience and willful lowering down of production would not arise. Therefore, the Labour Court passed the detailed order after analysing the evidence adduced on both sides and therefore, the present writ petition is liable to be dismissed.

5. This Court heard both sides and perused the materials available on record.



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6. In this case, according to the management they asked the respondent to produce 1164 units per shift, but they have only produced 682 to 722, and thereafter the respondent was asked to increase his production. But no any improvements even after the instructions given by the management. Therefore the respondent was charged for the willful disobedience and willful lowering down the production from previously attained level for the output in the Department, amounts to misconduct. According to the respondent, there is a job cards to show that what was the demand made by the department to produce number of units and without job cards it is not possible to hold that the said 1164 number of productions were requested by the management. But the said job cards have not been marked by the management.

7. It is an admitted fact that the respondent produced 682 units to 722 units per shift for the period from 01.04.2014 till 22.04.2014 and also admitted fact that other staff except six persons have produced around 900 units but six persons cannot achieved the target and thereby show cause notices were issued to them including the respondent. Except this respondent

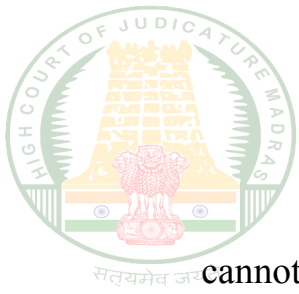


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and one Anbu other four employees assured to increase the productivity. But this petitioner and another one Mr.Anbu had given reply that only to wreck vengeance, the show cause notice was issued. Therefore, a charge memo was issued to the petitioner and one Anbu and thereafter domestic enquiry was conducted. As per the domestic enquiry charges were proved and thereafter the management issued second show cause notice and passed final order by dismissing the petitioner from service and the same was challenged before the Labour Court by raising an Industrial Dispute.

8. The Labour Court in the Preliminary award held that enquiry conducted by the respondent management is fair and proper, however the findings of the enquiry officer is perverse. Before the enquiry officer no job cards for the particular period from 18.11.2013 to 05.05.2014 were produced, whereas the job cards for the other periods were produced by the management in the domestic enquiry. The job cards and output details for the period after suspension alone were produced and for the particular period no job cards were produced. Further to compare the production of petitioner and his co-employees right from the date, the process of improvement was introduced till the petitioner was suspended are not available, therefore it



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cannot be concluded that the petitioner did not reach the production target based on the production of the output details.

9. After the above said findings of the Labour Court in the preliminary award, both sides have adduced their evidences and marked the documents. On the side of the workmen one witness was examined and six documents were marked. On the side of the management, two witnesses were examined and 36 documents were marked. This Court also perused the entire materials available on records. There are no materials to show the willfull disobedience of the workman. The non achieving the target fixed by the employer in the productivity alone will not amounts to disobedience. Achieving target is depending upon the ability of the individual. More over the management failed to produce the job cards to prove that the respondent was asked to produce particular quantities. Per contra the management only produced Ex.R6 output details and the same does not reveal the plan given to the operator.

10. The Labour Court after considering the evidence adduced on both sides discussed that there were two operators and two helpers to each of the

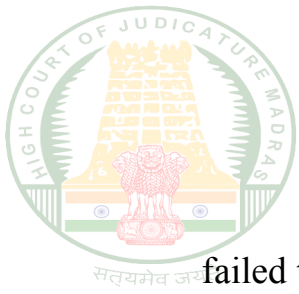


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operators to do the work before November 2013 and thereafter it has reduced the cycle time considerably and by reducing the machines, the heat in the atmosphere is also considerably reduced, which enable the employees to increase their production. After November 2013 to do the work, each operator in the FBC division was provided with one washing machine, therefore, washing of raw materials for five minutes by the operators was not changed, therefore, each operator could independently and separately do their work without depending on another operator for anything in the process of washing the raw materials except reduction of two helpers to one helper to two operators, in November 2013, two preheating ovens was reduced to one, it is compulsory procedure that before loading of raw materials in the preheating oven they were to be dried up properly, by using compressor air hoses, but at present, according to the respondent management instead of making the helper to use the compressor air hoses, freed the helper from manual work by letting the products dried under the fan and no any new machines or equipment is installed for such work in or after November 2013, therefore, there are some procedures in drying the materials.

11. The Labour Court further discussed that the management also

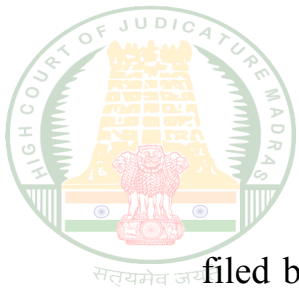


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failed to furnish documents to show that in what way the process is improved by reducing the preheating oven into one and no comparative study with material evidence which would establish the improvement in the process of operation, there was no evidence and materials produced by the petitioner/management to establish that what kind of improvement were made and what is an actual improvement occurred, therefore there is no material to prove the charge. The said findings of the Tribunal are based on the evidences.

12. Further the allegation of mere non production of the required units alone will not amount to disobedience of the orders of the superior authority and without producing the job cards as to how many units were required to produce by each of the employees by mentioning in the plan, it is not appropriate to hold that the respondent was required to produce for a particular units. Even assuming that the respondent was asked to produce the particular units, it is depending upon his ability and not reaching the target in productivity will not amounts to insubordination as he was unable to produce required number of units. If the respondent produced less than the units produced earlier then it can be considered as delinquency but there is no proof



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filed by the petitioner management to compare the previous production and the production for the disputed period. Even as per the documents of the management none of the employees have produced 1164 units per shift and maximum units were 922, however the employees who gave production of 632 to 777 units per shift were issued with show cause notices stating that there is willful lowering down of production from previously attained level of output in the employees department.

13. Further even as per the management witness from 23.11.2013 to 30.11.2013 nobody have produced the 1164 units. Therefore, there is no evidence to prove the charges against the respondent. Based on the evidence adduced on both sides, the Labour Court passed the final order after elaborate discussion and the same is reasoned order. The Labour Court also in the preliminary enquiry correctly held that the enquiry conducted by the respondent/management was fair and proper but the findings of the enquiry officer is perverse. Therefore, in view of the above said discussions, the Labour Court passed the reasoned order and there is no



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illegality or perversity in the order passed by the Labour Court and the same does not warrant any interference.

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14. The learned counsel appearing for the respondent also relied on the following judgments:

1. Fire Stone Tyre and Rubber Company Limited Vs Workman and others, reported in 1983 (1) LLN 340.

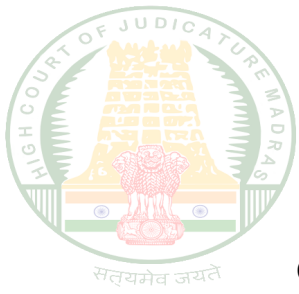
2. Iswarlal Mohanlal Thakkar Vs Paschim Gujarat Vij Company Ltd., reported in 2014 (2) LLJ 513

3. K.V.S. Ram Vs Bangalore Metropolitan Transport Corporation, reported in 2015 (1) LLJ 257

4. Taranjitsingh I. Bagga Vs Maharashtra State Transport Corporation, Amaravathi, Judgment of Bombay High Court, reported in 2008(3) LLJ 273.

5. Deepali Gundu Surwase Vs Kranti Junior Adhyapak Mahavidyalaya reported in 2013(10) SCC 324

6. Harjinder Singh Vs Punjab State Transport Corporation, reported in 2010(3) SCC 192.



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On a careful perusal of the above said judgments, it is clear that in the absence of material evidence, the termination of service of workers is not proper and justify. The High Court cannot exercise its power under Article 226 of the Constitution of India as an Appellate Court or re-appreciate evidence and record its findings on the contentions points. Only if there is a serious error of law or the findings recorded suffer from error apparent on record, can the High Court quash the order of a Lower Court.

15. In the case on hand also the Labour Court passed a reasoned order based on the evidence and there is no serious error of law and there are no error apparent in the findings recorded by the Labour Court.

16. Therefore, this Court is of the opinion that this writ petition has no merits and deserves to be dismissed. In the result, this writ petition is dismissed. No costs.

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Speaking/Non Speaking

Index : Yes / No

Internet : Yes / No



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To

1.The Labour Court, Hosur.

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