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W.P. No.5079 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.5079 of 2022
and W.M.P. No.5194 of 2022

S. Amul Raj S/o. Susaikani .. Petitioner

vs.

The Management,
Priarli Division,
Archidin, Park Side Estate,
Nonsuch (Post),
Coonoor - 643 238. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the Award in I.D. No.213 of 2006 dated 28.09.2017 on the file of the Additional Labour Court, Coimbatore and quash the same and directing the respondent to reinstate the petitioner with continuity of service, full backwages and other attendant benefits.

For Petitioner : Mr. R. Chandrasekaran

For Respondent : Mr. J. Franklin

ORDER

This Writ petition has been filed to quash the award passed in I.D.



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No.213 of 2006 dated 28.09.2017 on the file of the Additional Labour Court,
Coimbatore.

2. The short facts necessary to dispose the Writ petition are as follows:

The petitioner was a worker under the respondent Management. The respondent Management is a plantation engaged in cultivation and manufactured Tea. The plantation works depends mostly on seasonal business and the works of the Management are well informed to the workers to make themselves available during the season. While so, the petitioner, due to his ill health, applied leave from 17.02.2000 till the month of June 2000. The respondent Management, based on the complaint given by the Field Officer, issued a Show Cause Notice on 03.06.2000 and called for explanation from the petitioner. The petitioner also submitted his explanation on 28.06.2000. In the meantime, on 26.02.2000, Kolakombai Police registered a case against the petitioner and remanded him into judicial custody from 24.05.2000. Therefore, the petitioner was not able to contact the respondent Management either to extend his leave or to join duty. The respondent Management issued a Charge Memo on the petitioner and thereafter, a domestic enquiry was conducted. As per the Clause(6) of the Standing Order No.XXIII, 'absence



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without leave for more than 10 consecutive working days' is a misconduct.

Thereafter, the Enquiry Officer rendered his findings that charges against the petitioner were proved. Thereafter, the respondent Management issued a 2nd Show Cause Notice on 22.03.2001 and the same was explained by the petitioner through his reply dated 28.03.2001. Thereafter, the Management awarded a punishment of dismissal from service on 23.04.2001. Against which, the petitioner raised an industrial dispute before the Labour Court, Coimbatore for reinstatement with backwages and the same was dismissed. Challenging the said order, the present Writ petition is filed before this Court.

3. The learned counsel appearing for the petitioner would submit that the petitioner was a 'worker' under the respondent Management. While so, he applied leave from 17.02.2000 till the month of June 2000. In the meantime, a false case was foisted against the petitioner by the Kolakombai Police Station on 26.02.2000 and the petitioner was under judicial custody from 24.05.2000 and therefore, he was unable to contact the Management to extend his leave. For the above said absence, the Management had issued a Charge Memo and conducted domestic enquiry and thereafter, the Management awarded punishment of dismissal from service. Against which, the petitioner raised an industrial dispute before the Labour Court, Coimbatore and the same was



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dismissed without appreciating the merits of the case. The Labour Court mainly dismissed the industrial dispute on the ground of delay. Since the petitioner had applied leave from 17.02.2000, dismissing the petitioner for unauthorized absence as per Clause(6) of the Standing Order No.XXIII would not attract. The Enquiry Officer has not conducted the enquiry properly and without giving opportunity to the petitioner, the enquiry proceedings were conducted and the same has not been considered by the Labour Court. Therefore, the order passed by the Labour Court is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that the petitioner was a habitual absentee and he was absent from 17.02.2000 till the month of June 2000. Bsaed on the complaint given by the Field Officer, the respondent Management issued a Show Cause Notice on 03.06.2000 and called for an explanation from the petitioner. The petitioner also submitted his explanation, which was unsatisfactory, thereby, a domestic enquiry was conducted for the charges that "under Clause (6) of Standing Order No.23, "absence without leave for more than ten consecutive working days" and the petitioner had been absenting himself from duty without leave with effect from 17.02.2000 and under Clause No.12 of the Standing Order No.23, "any Act subversive of discipline", thereby, the absence of the petitioner without



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leave as mentioned in Clause (6) of Standing Order No.23 is subversive of discipline. The Enquiry Officer conducted enquiry by following the procedures and rendered his findings that the charges against the petitioner were proved and therefore, the Management issued a second Show Cause Notice and the petitioner also offered his explanation. Since the explanation of the petitioner, was unsatisfactory, the Management dismissed the petitioner from service through an order dated 23.04.2001. Apart from the unauthorized absence, the petitioner had also involved in criminal cases, that too abduction of an Estate Manager of a neighbouring estate and hence, he was remanded to judicial custody. Further, the petitioner was convicted by the Assistant Sessions Court, Udthagamandalam in a criminal case. Again he involved in a criminal case of having unauthorised possession of explosives and in the said case in S.C. No.48 of 2004 on the file of Principal District Sessions Court, Coimbatore, the petitioner was convicted on 04.08.2004. Again the petitioner involved in another criminal case in S.C. No.33 of 2007 before the Assistant Sessions Court, Udthagamandalam. Therefore, the petitioner had an habit of involving in criminal cases. Therefore, for the unauthorized absence, the petitioner was dismissed from service. Challenging the said order, the petitioner has raised an industrial dispute before the Labour Court, Coimbatore and the Labour Court passed a reasoned order by considering al



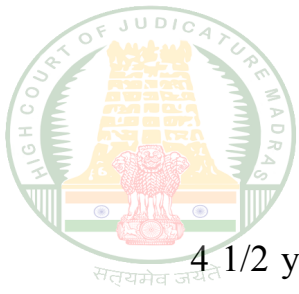
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the above aspects. Therefore, the order passed by the Labour Court is in order and the present petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. There is no dispute in respect of relationship between the parties as 'employer' and 'workman'. It is also an admitted fact that the petitioner absented for duty from 17.02.2000 till the month of June 2000. According to the petitioner, he submitted the leave application and the same was denied by the Management. Therefore, it is the duty of the petitioner to prove that he applied for leave and the same was not granted by the Management. But in order to substantiate his contention, no records were produced by the petitioner. Before the Labour Court, no oral or documentary evidences were adduced on the side of the petitioner. Per contra, on the side of the Management, 24 documents were marked, but no witnesses were examined. The Labour Court, after considering the evidences adduced on both sides, dismissed the petition.

7. The date of dismissal from service is 23.04.2001, but the petitioner raised an industrial dispute only on 14.12.2005. There is a delay of more than

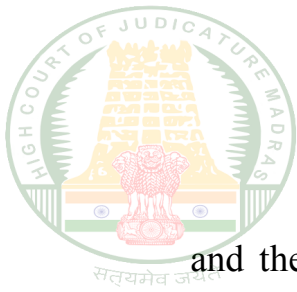


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4 1/2 years in raising the industrial dispute. On perusal of records, it is seen that sufficient opportunity was given to the petitioner in the domestic enquiry proceedings and the petitioner himself admitted that he was under judicial custody in a criminal case, thereby, he was unable to report duty or to file leave application. The petitioner also involved in several criminal cases and he was convicted in two cases. Therefore, the charges against the petitioner that 'he was unauthorizedly absent', has been amply proved by the Management through acceptable evidences. Before the Labour Court, no any evidence has been adduced by the petitioner to rebut the evidence of the Management. In the absence of any contra evidence, the evidence adduced by the Management are acceptable.

8. It is also an admitted fact that the industrial dispute has not been raised immediately after dismissal order passed by the Management. The date of dismissal order was on 23.04.2001 and the date of filing of industrial dispute was on 14.12.2005. Therefore, there is an enormous delay in raising an industrial dispute. No any explanation was offered by the petitioner for the delay of 4 1/2 years in raising the industrial dispute after dismissal order passed by the Management. The Labour Court, in its order, has elaborately discussed the above said aspects and rendered findings that the petitioner is not entitled for reinstatement and for backwages and not entitle to any relief



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and the industrial dispute was dismissed. The Labour Court has passed an elaborate order after discussing the judgments of the Hon'ble Supreme Court and this Court in respect of delay. Therefore, there is no any illegality or perverse in the order passed by the Labour Court, Coimbatore. Therefore, there are no grounds to allow this Writ petition.

9. In view of the above discussions, this Court is of the opinion that there is no merit in this Writ petition and deserves to be dismissed.

10. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

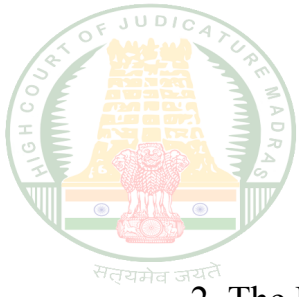
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Index : Yes/No
Speaking order/non-speaking order
mjs

To

1. The Presiding Officer,
Additional Labour Court, Coimbatore.

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2. The Management,
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