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W.P.No.11868 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.11868 of 2010

and

M.P.No.1 of 2010 & 34749 of 2023

Management of
Roca Bathroom Products P.Ltd.
(formerly known as
Parryware Roca Pvt Ltd)
Ranipet 632 401 rep. by its
General Manager – Operations.

...Petitioner

Vs.

1. The Presiding Officer,
Additional Labour Court
Vellore, Vellore District.

2. J.Agaustin Selvakumar

...Respondents

Writ Petition filed under Article 226 of Constitution of India,
praying for issuance of Writ of certiorari calling for the records of the 1st
respondent in I.D.No.22 of 2008 and quash its order dated 17.12.2009.

For Petitioner : M/s.T.S.Gopalan and Co.

For Respondents : Labour Court - R1
Mr.K.M.Ramesh, Sr.C
M/s.V.Subramani for R2



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ORDER

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The petitioner has filed this Writ petition seeking to quash the order of 1st respondent in I.D.No.22 of 2008 and quash its order dated 17.12.2009.

2. The case of the petitioner is that the petitioner factory is engaged in the manufacture of Sanitary ware products. The second respondent was engaged as an electrician in the petitioner factory. Due to the unauthorised absence of the second respondent, he was terminated from service after completing the formalities. Challenging the same, the second respondent raised an industrial dispute before the first respondent for adjudication in I.D.No.22 of 2008, wherein the Labour Court vide order dated 17.12.2009 has ordered for reinstatement of the second respondent with 10% back wages from the date of termination with continuity of service. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner submits that prior to the unauthorised absence of the second respondent, he rendered 17 years of service thereafter, during the pendency of the writ petition, the petitioner management has paid 17B wages and the second respondent has also



received the same. During the pendency of this writ petition the second respondent retired from service. Hence, this Court may fix reasonable compensation only insofar as terminal benefits is concerned.

4. The learned counsel for the second respondent submits that admittedly the second respondent was on leave for a period of three months for which he had given three leave letters as directed by the officials. The second respondent went to London with his children to see his wife, during which time he fell sick. In spite of his information about his return to India, the departmental enquiry has been conducted *ex parte* enquiry which is *per se* unsustainable. Hence, he prayed for passing appropriate orders.

5. Admittedly, the second respondent was employed as an Electrician in the petitioner management from the year 1990. For the alleged misconduct, he was issued with a charge memo and after conducting enquiry, he was terminated from service. However, the issue arises for consideration in this writ petition is whether for unauthorised absence, the punishment imposed by the management is proportionate or not ?



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6. Normally, this Court would not interfere with the punishment imposed on the delinquent unless it is shown to be arbitrary, perverse, illegal and further the punishment imposed on the delinquent shocks the conscience of this Court, as this Court is guided by the ratio laid down in ***Prem Nath Bali Vs. High Court of Delhi (2015 (16) SCC 415)***. So long as the punishment imposed is not disproportionate to the charges framed against, the Courts normally would not interfere with the punishment.

7. It has been the consistent view of the Courts that, it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere with the same in exercise of powers under Article 226 of the Constitution. In ***Prem Nath Bali Vs. High Court of Delhi*** reported in ***(2015 (16) SCC 415)***, the Hon'ble Supreme Court held as under :-

20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority,



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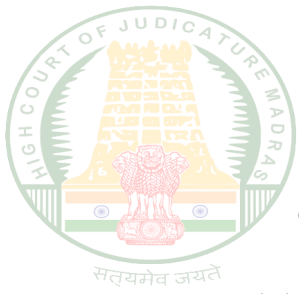
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keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the Courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the Court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the Court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.

(Emphasis Supplied)

8. In the present case, the allegation made against the petitioner is not corruption or insubordination or any other major allegation, but the allegation levelled only relates to unauthorized absence. Even assuming that the allegations made against the workman is a proved misconduct, dismissing the workman from service is highly disproportionate, which is liable to be interfered with.



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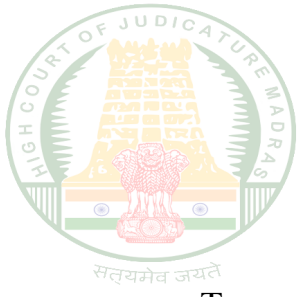
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9. Though this Court would not normally interfere with the punishment imposed on the delinquent, unless it shocks the conscience of this Court, but this Court, already having held that the punishment is disproportionate and also the fact that the workman attained the age of superannuation, in order to strike balance between the parties is inclined to fix compensation as full quit for the hardship suffered by the second respondent. The petitioner management is directed to pay a sum of Rs.3,50,000/- as compensation in full quit in favour of the second respondent within a period of four (4) weeks from the date of receipt of a copy of this order.

10. With the above observation this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

04.02.2025

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NCC : Yes/No
Speaking Order : Yes/No



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To:

The Presiding Officer,
Additional Labour Court
Vellore, Vellore District.



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M.DHANDAPANI, J.

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