



W.P.Nos.20032 of 2010 & 17210 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.02.2025

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

W.P.Nos.20032 of 2010 & 17210 of 2011

and

MP.Nos.1 of 2010, 1 of 2011(2 Nos.), 2 of 2011 and 1 & 2 of 2015

W.P.No.20032 of 2010:

National Small Industries Corporation Ltd.,
Rep. by its Executive Director,
615, Anna Salai, Chennai – 600 002.

...Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court,
Chennai – 104.

2. S.Nithyakalyani

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the first respondent relating to the impugned award dated 27.04.2010 in I.D.No.339/94 and quash the same.

W.P.No.17210 of 2011:

S.Nithyakalyani

...Petitioner



W.P.Nos.20032 of 2010 & 17210 of 2011

Vs.

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1. The Presiding Officer,
Principal Labour Court,
Chennai – 104.
2. National Small Industries Corporation Ltd.
Rep. by its Executive Director,
No.615, Anna Salai, Chennai – 600 002. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records to the Award of the 1st respondent Labour Court dated 27.04.2010 in I.D.No.339/94 to quash the same and consequently direct the management to pay the petitioner full backwages, award costs.

In both W.P's.

For Petitioner	: Mr.R.Arumugam, for M/s. Aiyar and Dolia (In W.P.No.20032 of 2010) : Mr.S.Sathish Kumar, for M/s.Row & Reddy (In W.P.No.17210 of 2011)
For Respondents	: R1 – Court, (In both W.P's.) : Mr.S.Sathish Kumar, for M/s.Row & Reddy, for R2 (In W.P.No.20032 of 2010) : Mr.R.Arumugam, for R2 (In W.P.No.17210 of 2011)



W.P.Nos.20032 of 2010 & 17210 of 2011

COMMON ORDER

WEB COPY Since the issue involved in both the Writ petitions are interconnected, they are disposed of by way of this common order.

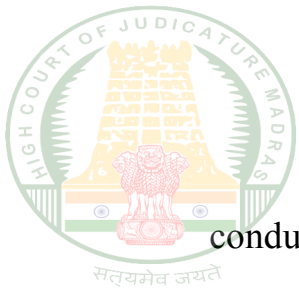
2. Challenging the award of the 1st respondent/Principal Labour Court, Chennai in I.D.No.339 of 1994 dated 27.04.2010, the employer as well as the employee have come up with these Writ petitions.

3. For brevity, the petitioner in W.P.No.20032 of 2010 is hereinafter referred to as the management and the petitioner in W.P.No.17210 of 2011 is hereinafter referred to as the employee.

4. The short facts necessary for disposal of these Writ petitions are as follows:

The employee joined the services of the management in the year 1965. During the relevant period, the employee worked as a Cashier and she was charge sheeted on 31.05.1988 for two charges namely, negligent in performing duties as Cashier and the other is for allegedly engaging herself in financial activities of borrowing and lending money unauthorisedly. After

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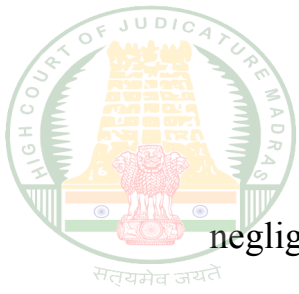


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conducting enquiry, the employee was terminated from service by order dated 31.12.1991. Pursuant to the same, the employee initiated conciliation proceedings and as the same ended in failure, the employee had raised the present dispute in I.D.No.339 of 1994 and the labour court, on an analysis of the entire materials available before it held that the 1st charge was not proved and that disproportionate punishment was awarded in respect of the 2nd charge and set aside the order of removal, by its award dated 27.04.2010 and directed the management to pay 30% backwages from the date of dismissal till the date of superannuation along with continuity of service and all other attendant benefits. Aggrieved by the same, the management has filed W.P.No.20032 of 2010 and for not awarding full backwages, the employee has filed W.P.No.17210 of 2011.

5. This Court gave its careful consideration to the arguments advanced by the learned counsel on either side and perused the materials available on record.

6. It is the major contention of the management that it had charge sheeted the employee on two charges, the 1st charge is that she was



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negligent in her duty as a Cashier which had resulted in a loss to the management to the tune of Rs.95,000/-, as the employee had passed vouchers presented to her without cross checking or verifying the genuineness of the same. In the enquiry conducted by the management, it was found that a part time casual labourer named Sundaram was the culprit, who himself admitted that he had clandestinely removed vouchers from the table of the Deputy Manager and filled amounts by forging the signatures of the Officers concerned and when the same were presented to the employee, she processed the same. The said Sundaram had also admitted that he had forged nearly seventy (70) vouchers and claimed amounts.

7. Having found that the said Sundaram was the person who had stolen the vouchers, forged signatures and encashed the same, it is rather surprising that no police complaint was lodged. The said attitude of the management only shows that they need a scape goat to fix the blame and their shortcomings. The evidences let in by the management also shows that there is no fool proof method for safeguarding the vouchers and also for cross verification of the vouchers before coming to the hands of the cashier for encashment.



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8. At the risk of reputation, this Court expresses its anguish at the way the management has handled the misconduct committed by the said Sundaram. The fact that there was inadequate infrastructure in the office of the management for safe custody of vouchers and documents, is borne out by the evidence of P.W.5. It is seen that if one could jump over the cabin, he/she would have access to all the documents. Therefore, this Court is of the view that the findings rendered by the Labour court that the 1st charge was not proved is confirmed.

9. The second charge is that the employee was engaged in financial activities of borrowing and lending money unauthorisedly during 1982-87. A perusal of the materials available on record particularly the impugned award shows that, it was not only the employee but three other employees were also charged for the same misconduct of indulging in financial activities. However, those three officials were dealt with kid gloves, whereas the employee was taken a task. Of the three officials, one was exonerated; the other was compulsorily retired and another official, though was compulsorily retired; his punishment was later converted into reduction

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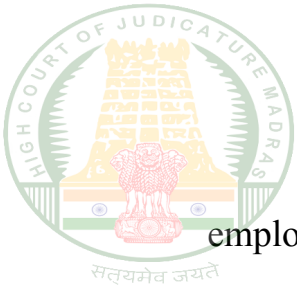
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of pay by three stages for a period of three years. This Act of the management is nothing but a clear act of discrimination shown to its employees. Again, the management wanted a scape goat to punish and they chose the employee for the same. When three other persons were found guilty of the same misconduct and they were given lighter punishment, it is rather astonishing as to why capital punishment of dismissal from service was awarded to the employee. Considering all the said facts, the labour court had found that the punishment was disproportionate to the charge. This Court is in complete agreement with the said finding arrived at by the labour court.

10. Since the employee had reached the age of superannuation even on the date of passing of the award, the labour court held that the question of reinstatement would not arise and instead directed the management to pay backwages at 30% along with all other attendant benefits.

11. As regards backwages, the Labour court has awarded 30% backwages to the employee. Though the employee has categorically stated in her evidence that she was not gainfully employed during the non

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employment period and the employer has also failed to substantiate that the employee was gainfully employment, even then, for the reasons best known to it, the labour court had fixed backwages at 30%. However, considering the passage of time, this Court is not inclined to increase the same. Likewise, this Court is not inclined to reduce the same and the same is also confirmed.

12. Accordingly, the management is directed to honour the impugned award passed by the labour court dated 27.04.2010 and the management shall settle the terminal benefits and all other attendant benefits along with 30% backwages from the date of dismissal till the date of superannuation in favour of the employee, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that, the employee would be entitled for continuity of service for the purpose of calculating the terminal benefits.



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WEB COPY 13. In the result, the impugned award of the 1st respondent Labour Court, Chennai dated 27.04.2010 made in I.D.No.339 of 1994 is confirmed and the Writ petitions filed by both the management as well as the employee stand dismissed. No costs. Consequently, the connected Miscellaneous petitions are closed.

04.02.2025

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NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

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

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W.P.Nos.20032 of 2010 & 17210 of 2011

M.DHANDAPANI, J.

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