

W.P. Nos.5133 & 5135 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 10.02.2025
PRONOUNCED ON : 02.04.2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P.Nos. 5133 & 5135 of 2020
and
W.M.P.Nos. 6065, 6067, 23171, 23186
and 23188 of 2020

The General Manager,
CPF (India) Pvt. Ltd,
Pallikuppam Road,
Agaramcherry,
Ambur Taluk,
Vellore District.

.... Petitioner in both Wps

Vs.

C.Kalaivasan, aged 38 years
S/o. Padavettan,
No.30A, Sivaraj Nagar,
Chettikuppam Village and Post,
Gudiyatham Taluk,
Vellore District.

...Respondent in WP No.5133/2020

C.Karunanithi, aged 55 years
S/o. Chinnaraj,
CPF (India) Pvt. Ltd
122, Kilchettykuppam Village,
Chettikuppam Post,
Gudiyatham Taluk,
Vellore District.

...Respondent in WP No.5135/2020



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Prayer in both WPs

To issue a writ of certiorari, calling for the records of the Principal Labour Court, Vellore in I.D.No.3/2018 (W.P.No.5133/2020) and I.D.No.2/2018 (W.P.No.5135/2020) and quash the Awards dated 18.12.2019 and pass such further orders as this Hon'ble Court may deem fit.

Prayer in W.M.P.No. 6065 of 2020

To grant an interim stay of the Award of the Principal Labour Court, Vellore dated 18.12.2019 in I.D.No. 3 of 2018 during the pendency of the writ petition.

Prayer in W.M.P.No.6067 of 2020

To grant an interim stay of the Award of the Principal Labour Court, Vellore dated 18.12.2019 in I.D.No. 2 of 2018 during the pendency of the writ petition.

Prayer in W.M.P.No. 23171 of 2020

To direct the respondent / petitioner to pay wages as per section 17B of the Industrial Disputes Act, 1948 to the petitioner from the date of filing of the above Writ Petition within the time frame as may be fixed by this Hon'ble Court to till the disposal of the above Writ Petition.

Prayer in W.M.P.No.23186 of 2020

To direct the respondent / petitioner to deposit 50% amount of



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Rs.1,74,288/- (Rupees One Lakh Seventy Four Two Hundred Eighty Eight Only) due to the petitioner for the period from 29-11-2016 to 17-12-2019 and to permit the petitioner / respondent to withdraw the interest accrued once in 3 months pending disposal of the above writ petition and pass such further or other orders.

Prayer in W.M.P.No. 23188 of 2020

To direct the respondent / petitioner to pay wages as per section 17B of the Industrial Disputes Act, 1948 to the Petitioner from the date of filing of the above Writ Petition within the time frame as may be fixed by this Hon'ble Court to till the disposal of the above Writ Petition and pass such further or other orders.

Appearance of Parties:

For Petitioner : Mr.S.Ravindran, Sr.Counsel
In both Wps for M/s. S.Bazeer Ahamed and C.Yamini, Advocates

For Respondent : Ms.G.P.Arivuchudar, Advocate
In both Wps M/s. S.Sivakumar, P.H.C.M.Gandhi,
M.Kamatchi Sundhari, and B.Haritha Priyadarshini,
Advocates for M/s.Law Square, Advocates

COMMON JUDGMENT

Heard.

2. Both these writ petitions have been filed by the same Petitioner

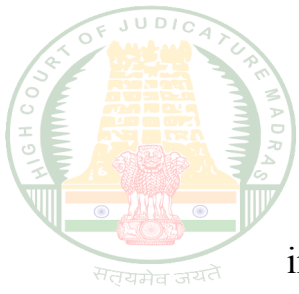


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Management challenging two awards passed by the Principal Labour Court, Vellore, on 18.12.2019, in I.D.Nos. 3/2018 and 2/2018. By these awards, the Labour Court set aside the dismissal orders passed against the two respondent workmen and directed their reinstatement with continuity of service. In respect of I.D.No.3/2018 (C. Kalaivasan), reinstatement was ordered without back wages, while in I.D.No.2/2018 (C. Karunanithi), reinstatement was ordered with 50% of the back wages.

3. When both matters came up for admission, this Court, on 28.02.2020, ordered notice of motion. Subsequently, when the matters were listed again on the same date, this Court, while ordering notice to the respondents, granted a stay subject to the following condition:

“2. Mr.S.Ravindran, learned Senior Counsel appearing for the petitioner in both the writ petitions submitted that the charges levelled against the Workmen are serious in nature viz., assault on and wrongfully restraining the other employees and when such charges were proved before the Labour Court by letting in evidence, the impugned awards were passed on total misconception of the fact regarding the date of a particular incident as 16.11.2016, when the complaint filed under Ex.M5 would show that such incident took place on 19.11.2016 only. Therefore, he submitted that based on such misconception, the Labour Court was not justified in setting aside the orders of punishment. He also submitted that the Labour Court has not given any finding regarding the



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incidents took place on other two days, even though the Management has proved the same by letting in evidence.

3. He also fairly submitted that in the event, the respondent files an affidavit before this Court in compliance of the requirement contemplated under Section 17-B of the Industrial Disputes Act, the petitioner Management is willing to pay the last drawn wages to the respondents/Workmen, during the pendency of these writ petitions.

3. Considering the above stated facts and circumstances and the undertaking given as referred supra, there will be an order of interim stay of the impugned award for a period of three weeks. Post the writ petitions after three weeks.”

4. Unaware of the order passed by this Court, the respondents in both writ petitions filed two miscellaneous petitions seeking last drawn wages under Section 17B of the Industrial Disputes Act. Specifically, C. Kalaivasan filed WMP No. 23171 of 2020, and C. Karunanithi filed WMP No. 23188 of 2020, accompanied by supporting affidavits stating that they had been out of employment for over four years and were not gainfully employed. The respondent in W.P.No. 5135 of 2020 (C. Karunanithi), being entitled to 50% of the back wages, filed another miscellaneous petition in WMP No. 23186 of 2020, seeking a direction to the petitioner management to deposit the sum of Rs. 1,74,288/-, representing 50% of the amount due to him from 29.11.2016 to



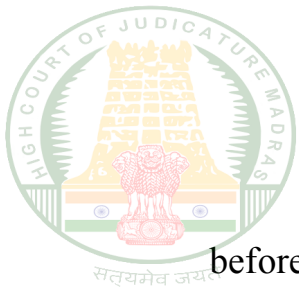
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17.12.2019. He further prayed for permission to withdraw the interest accrued every three months in the event of the deposit being made.

5. The facts leading to the filing of W.P. No. 5133 of 2020 are as follows:

The respondent, C. Kalaivasan, was placed under suspension by an order dated 19.11.2016 (Ex.M2). Subsequently, the suspension was revoked by an order dated 22.11.2016 (Ex.M3). The suspension arose out of an incident involving the alleged assault of an employee named S. Balaji and the use of abusive language towards him. It was claimed that S. Balaji lodged a police complaint regarding the incident at the Rural Police Station, Gudiyatham, through a complaint dated 19.11.2016 (Ex.M5), and the police issued a CSR acknowledgment on 26.11.2016 (Ex.M6). The complaint indicated that the incident purportedly took place in Bangarishikuppam village. Based on the said incident, the Management, by an order dated 29.11.2016 (Ex.M10), dismissed the respondent without conducting any inquiry, citing the reason that the prevailing atmosphere was not conducive for holding an inquiry.

6. The respondent, C. Kalaivasan, raised an industrial dispute



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before the Labour Officer, Vellore, under Section 2A of the Industrial Disputes Act (Ex.W5). As the Conciliation Officer could not bring about a settlement, he submitted a failure report dated 25.09.2017 (Ex.W1). Based on the failure report, the workman filed a claim statement, dated Nil, January 2018, before the Labour Court, Vellore. The dispute was taken on file as I.D.No. 3 of 2018, and notice was issued to the petitioner management. In the claim statement, the respondent asserted that he had been working as an A Grade worker since 08.12.2010. He contended that, as per the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 (T.N. Act 46/1981), a worker is entitled to be made permanent upon completion of 480 days of continuous service within a period of 24 calendar months. However, instead of conferring permanent status from 01.04.2012, the management made him permanent only from 01.02.2013 (Ex.W3).

7.Despite making several representations to the management, the workers were unable to achieve their demands, as there was no trade union to take up their cause. Consequently, the workers formed a trade union under the name "Vellore District Modern Poultry Workers Union," which was



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registered on 14.12.2016 (Ex.W4) with Registration No.1576/VLR. The respondent, being actively involved with the union, faced resistance from the management. The officers and subordinates of the management allegedly threatened the workers regarding the formation of the union and warned them of possible termination from service. Amidst this hostile environment, the management, without any valid reason, suspended the respondent for three days. However, upon representation made by the union secretary, the suspension was subsequently revoked. Despite this, the management proceeded to dismiss the respondent from service without conducting any domestic inquiry, as mandated by the Model Standing Orders framed by the Government under the Industrial Employment (Standing Orders) Act, 1946.

8. The management, upon receipt of notice, filed a written statement dated 30.04.2016. In the written statement, it was asserted that a compact disc containing a partial audio recording of the events that transpired on 19.11.2016, recorded by one Gopi (MW2), an employee, was sent along with the termination order. The management contended that the provisions of the Standing Orders Act and the Permanent Status



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Act were not applicable to them. They further alleged that it was only after the registration of the union that a few workers, driven by vested interests, began behaving disruptively and disturbing the peaceful atmosphere. It was also claimed that the respondent was employed as a contract worker with BSNL. Significantly, the written statement made no reference to the alleged lack of a conducive atmosphere to conduct a domestic inquiry. Instead, it merely contained a vague assertion that the management was willing to prove the charges before the Labour Court.

9.If the management intended to justify the non-holding of a domestic inquiry without passing any formal order accepting the same and permitting the management to prove the charges, the Labour Court ought to have clearly recorded its decision to allow the parties to lead evidence. However, in the present case, the Labour Court allowed the management to adduce evidence to substantiate the charges without formally permitting it. As a consequence, the workman was compelled to step into the witness box as WW1 and was required to plead his innocence as the first witness. He filed his proof affidavit on 05.06.2018, was chief-examined on 19.06.2018, and extensively cross-examined by the



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management on 30.08.2018. Such a procedure is wholly unacceptable.

When a workman is dismissed from service without conducting an inquiry, and if the management seeks permission to prove the charges before the Labour Court, the correct procedure mandates that the management must first lead evidence to establish the charges. Only after the management's evidence is concluded should the workman be called upon to depose in rebuttal.

10. Subsequently, the management examined S. Balaji (MW1) and N. Gopi, who had by then taken up employment elsewhere, having resigned from the petitioner management on 05.08.2018, where he previously served as Senior HR Officer. In his proof affidavit dated 01.03.2019, N. Gopi, in paragraph 8, made the following statement:

"19-11-2016 ????? ??????? ???????
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11. During the chief examination held on 01.03.2019, the said compact disc was marked as Ex.MO1. During the cross-examination of MW2, N. Gopi, he made the following admission:

"?????????? ?????????????? ?????????????? ??????? ?????????????????"



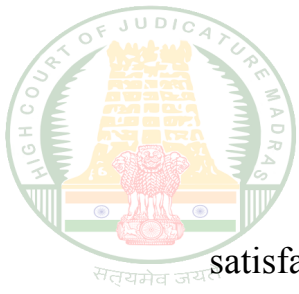
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22.11.2016, ?????? 23.11.2016 ??? ?????????????? ???
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12. One L. Suresh Kumar, Assistant Manager - HR, was examined as MW3 solely for the purpose of marking the dismissal order dated 29.11.2016 (Ex.M10) and the returned postal cover (Ex.M11). He did not testify about the alleged non-conducive atmosphere for conducting the enquiry. Based on the evidence, the Labour Court framed four issues in paragraph 5 of the impugned order. The first issue addressed was whether the non-conduct of a domestic enquiry would vitiate the dismissal order. Relying on the Firestone case (1973 (1) SCC 813), the Labour Court held that the dismissal order could not be set aside merely on that ground. The second issue concerned whether the management had proved the allegations made in the dismissal order. The Labour Court found that the deposition of MW1 lacked credibility, as his police complaint (Ex.M5) was filed after a delay of seven days, without any



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satisfactory explanation for the delay. The Court concluded that, at most, the worker might have had a heated conversation with his supervisor, and the alleged threat could only be considered a minor misconduct.

13. Likewise, the evidence of MW2 also failed to establish that there was any threat posed by the petitioner; at best, it could only be regarded as minor misconduct. It is pertinent to note that the Labour Court, without any proper justification, permitted the compact disc to be marked as Ex.MO1, played the audio recording, and listened to the conversation. Ultimately, the Court recorded the following observation in paragraph 14:

“The conversation entered in to with MW2 by the Petitioner is said to be recorded by MW2 through his mobile phone and the same is converted in to C.D. and marked as M.O.1. On hearing the said conversation this Court is of the view that it cannot be termed as threatening. The conversation seems to have repeatedly requesting the MW2 to resolve the dispute enquiring the matter with the Contractor or to take steps to have talks by the Petitioner with the Contractor directly. It is also repeatedly informed that the Petitioner and his men are willing to go for work only as per the instruction of the Management. Hence, in such a lengthy conversation accidentally addressing one or two times in a singular form that too by an illiterate and as the Petitioner



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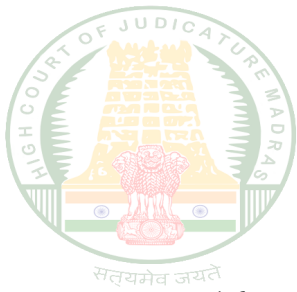
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had addressed the MW2 respectfully in most of the conversation, this Court is of the view that the evidence of MW2 does not come within the term of threatening by the Petitioner and at the most it can be construed as a minor misconduct.”

14. The Labour Court after holding the charges against the workman were only proved to the extent indicated by it and also as regards the abusive words, it held the dismissal was unjustified. For the proved minor misconduct, the labour court held that the dismissal was disproportionate and the workman was eligible to be reinstated with continuity of service, however without back wages. This was shocking finding by the Labour Court as there was no justification to deny full back wages to the workman and the reason given was not satisfactory. But in any event, as the workman had not come up to that portion of the Award, this court is not inclined to deal with the same.

15. In the affidavit filed in support of the writ petition, the management raised the following ground in paragraph 10(e), which reads as follows:

“Ex.MO1 would also prove the belligerent conduct of the Respondent. The Labour Court ignores this weighty evidence and downplays it by stating there was only lengthy conversation between the Respondent and MW2. This type of lenient view of the Labour Court cannot be appreciated in industrial jurisprudence.”



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16. In the written submission filed by the learned counsel for the Petitioner Management dt. 7.2.2025, in Para 4(b),(c)and (e) the following contentions were raised:-

“b.The lower court downplays the incident against Balaji and Gopi on 19.11.2016 without analysing the evidence of the above 2 witnesses.

c. The Lower court did not take into consideration evidence given by Balaji and Gopi in respect of serious misconduct committed by the respondent in attempting to switch off the power supply thereby leading to death of thousand of chicken.

d. The Lower court did not take into consideration evidence given by Balaji and Gopi in respect of the misconduct committed by respondent 22.11.2016 and 23.11.2016 at all.

e. The impugned award suffers form non application of mind in respect of material evidence.”

17. It must be noted that the manner in which the management dealt with the respondent workman amounts, to say the least, to unfair treatment and victimization. If the respondent was suspended by an order dated 19.11.2016, purportedly for serious misconduct, it is essential to consider the relevant provisions of the Model Standing Orders. Under Model Standing Order 17(4)(a), suspension is permissible only when a



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disciplinary proceeding against the workman is contemplated or when a criminal proceeding against him is in progress. Further, the employer must be satisfied that it is both necessary and desirable to place the workman under suspension, and such suspension must be effected through a written order.

18. The suspension order dated 19.11.2016 (Ex.M2) stated that the suspension was pending enquiry. However, just three days later, on 22.11.2016 (Ex.M3), the management revoked the suspension order. Although the order made a reference to the workman's letter, it did not furnish any reasons for either the withdrawal of the suspension or the initial imposition thereof. The relevant portion of the order reads as follows:

“Further to suspension pending order dated 19th November, 2016 based on the request, the management has decided to withdraw the suspension and allow resuming duty with effect from 22nd November, 2016.”

19. According to the management, there were three incidents that took place on 16.11.2016, 19.11.2016, and 22.11.2016. The Labour Court, however, downplayed the significance of the latter two incidents.

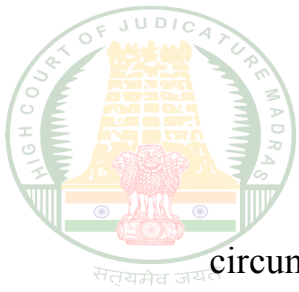


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On the contrary, the management contended that the incidents of 19.11.2016 and 22.11.2016 were of a serious nature. If that were truly the case, and the worker had already been suspended pending enquiry for the alleged incident dated 16.11.2016, there would have been no justification for the management to revoke the suspension. This clearly indicates that, even in the view of the management, there was no necessity for a pending enquiry suspension. In the written statement filed before the Labour Court, in paragraph 7, the management provided a reason for revoking the suspension, which appears unconvincing and reads as follows:

“The Petitioner also said that nothing can be done even if anybody is informed and we he would not move from the place until the suspension of the Petitioner is withdrawn; the suspended contract workers joined with the Petitioner and created a ruckus in front of the main gate. The Respondent again informed the Police Station and the SI of Police advised that the suspension order be revoked to mitigate the problem. At such advice, to bring about a peaceful situation, the Respondent revoked the suspension of the Petitioner”

20. The witness MW3, who was the Assistant Manager-HR, was examined solely for the purpose of marking the dismissal order (Ex.M10) and the returned postal cover (Ex.M11). He did not shed any light on the



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circumstances under which the suspension pending enquiry was revoked.

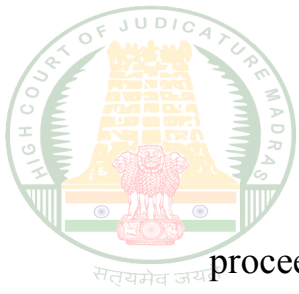
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It is apparent that the management had a predetermined intention to deal with the respondent differently, as they proceeded to dismiss the worker within a week without conducting any enquiry. The justification for not holding an enquiry was addressed in paragraphs 7 and 8 of the dismissal order, which read as follows:

”7.???? ????????? ?????????? ?????????? ?????? ???
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21. The extraordinary circumstances justifying the decision not to hold an enquiry were neither explained in the reply statement nor spoken about by MW3. It is also pertinent to note that the Model Standing Orders, which govern the conduct of disciplinary proceedings, do not contain any provision to dispense with the domestic enquiry. However, with the introduction of Section 11A of the Industrial Disputes Act, and as interpreted by the Supreme Court in the Firestone case (cited supra), which was relied upon by the Labour Court to allow the management to lead evidence before the court, the standard of proof required in such



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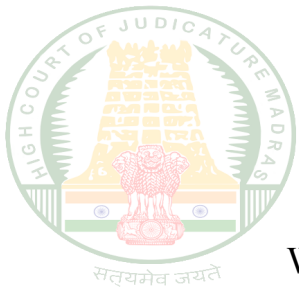
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proceedings is significantly higher than that required in a domestic enquiry.

22. The Supreme Court, in the case of **Workmen of M/s. Firestone Tyre & Rubber Company v. Management & Others** reported in 1973 (1) SCC 813, clarified the scope of Section 11A and outlined the circumstances under which an employer may lead evidence for the first time before the Labour Court. The relevant portion reads as follows:

“..... We should not be understood as laying down that there is no obligation whatsoever on the part of an employer to hold an enquiry before passing an order of discharge or dismissal. This Court has consistently been holding that an employer is expected to hold a proper enquiry according to the Standing Orders and principles of natural justice. It has also been emphasised that such an enquiry should not be an empty formality. If a proper enquiry is conducted by an employer and a correct finding arrived at regarding the misconduct, the Tribunal, even though it has now power to differ from the conclusions arrived at by the management, will have to give very cogent reasons for not accepting the view of the employer. Further by holding a proper enquiry, the employer will also escape the charge of having acted arbitrarily or mala fide. It cannot be over emphasised that conducting of a proper and valid enquiry by an employer will conduce to harmonious and healthy relationship between him and the workman and it will serve the cause of industrial peace.

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We have already expressed our view regarding the interpretation of -section 11A. We have held that the previous law, according to the decisions of this Court, in cases where a proper domestic enquiry had been held, was that the Tribunal, had no jurisdiction to interfere with the finding of misconduct except under certain circumstances. The position further was that the Tribunal had no jurisdiction to interfere with the punishment imposed by an employer both in cases where the misconduct is established in a proper domestic enquiry as also in cases where the Tribunal finds such misconduct proved on the basis of evidence adduced before it These limitations on the powers of the Tribunals were recognised by this Court mainly on the basis that the power to take disciplinary action and impose punishment was part of the managerial functions. That means that the law, as laid down by this Court over a period of years,' had recognised certain managerial rights in an employer. We have pointed out that this position has now been changed by section 11 A. The section has the effect of altering the law by abridging the rights of the employer inasmuch as it gives power to the Tribunal for the first time to differ both on a finding of misconduct arrived at by' an employer as well as the punishment imposed by him.”

23. With regard to the reliance placed on the electronic evidence in the form of a compact disc marked as MO1, it must be stated, at the outset, that it is wholly inadmissible in evidence. Firstly, the witness MW2 did not produce the mobile phone from which the conversation



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was allegedly recorded. Furthermore, there was no explanation as to how the audio file was downloaded onto the compact disc or where this process took place. Most importantly, the mandatory certificate under Section 65B of the Indian Evidence Act was not produced before the Labour Court. Although the Labour Court is not strictly bound by the technical rules of evidence, the fundamental principles of the Evidence Act are still applicable, and this being an electronic evidence without the primary evidence not being produced, the exercise by the labour court by listening to the conversation was unnecessary. Even after listening to the conversation the labour court found there was no adverse conduct noticed.

24. The following decisions make it abundantly clear that electronic evidence, without the requisite certificate under Section 65B of the Evidence Act, cannot be admitted or looked into. In **Anvar P.V. v. P.K. Basheer** reported in 2014 (10) SCC 473, the Supreme Court held as follows:

“The situation would have been different had the appellant adduced primary evidence, by making available in evidence, the CDs used for announcement and songs. Had those CDs used for objectionable songs or announcements been duly got



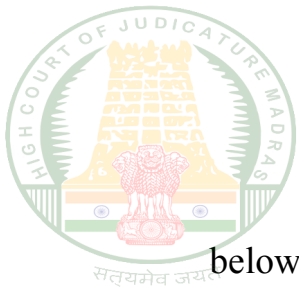
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seized through the police or Election Commission and had the same been used as primary evidence, the High Court could have played the same in court to see whether the allegations were true. That is not the situation in this case. The speeches, songs and announcements were recorded using other instruments and by feeding them into a computer, CDs were made therefrom which were produced in court, without due certification. Those CDs cannot be admitted in evidence since the mandatory requirements of Section 65B of the Evidence Act are not satisfied. It is clarified that notwithstanding what we have stated herein in the preceding paragraphs on the secondary evidence on electronic record with reference to Section 59, 65A and 65B of the Evidence Act, if an electronic record as such is used as primary evidence under Section 62 of the Evidence Act, the same is admissible in evidence, without compliance of the conditions in Section 65B of the Evidence Act.”

25. The aforesaid issue was subsequently considered by the Supreme Court in **Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal** (AIR 2020 SC 4908). The Court opined that there exists a distinction between the original information contained within a computer system and the copies made therefrom. The former constitutes primary evidence, while the latter amounts to secondary evidence. It was held that the certificate under Section 65B of the Evidence Act is not required when the original document (i.e., primary evidence) itself is produced. The relevant portion from paragraph 31 of the judgment is extracted



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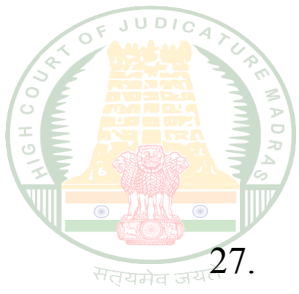
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“31. The non-obstante clause in sub-section (1) makes it clear that when it comes to information contained in an electronic record, admissibility and proof thereof must follow the drill of Section 65B, which is a special provision in this behalf - Sections 62 to 65 being irrelevant for this purpose. However, Section 65B(1) clearly differentiates between the “original” document - which would be the original “electronic record” contained in the “computer” in which the original information is first stored - and the computer output containing such information, which then may be treated as evidence of the contents of the “original” document. All this necessarily shows that Section 65B differentiates between the original information contained in the “computer” itself and copies made therefrom – the former being primary evidence, and the latter being secondary evidence.”

Therefore, the contention raised by the management, both in the affidavit and in the written arguments, that Material Object 1 was not fully considered, is devoid of legal merit. Being completely unreliable and inadmissible, it does not constitute evidence in the eye of law.

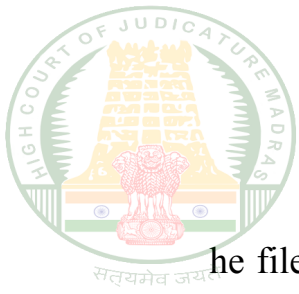
26. Viewed from this perspective, the Labour Court was justified in holding, in the impugned award, that the proven act amounted to only minor misconduct, and therefore, the imposition of the extraordinary punishment of dismissal was unwarranted.



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27. In the case covered by W.P.No.5135 of 2020, the respondent, C. Karunanithi, was a signatory to the settlement dated 26.09.2014, arrived at under Section 12(3) of the Industrial Disputes Act, before the Government Labour Officer II, Vellore (Ex.M1). The settlement provided for the payment of daily wages as fixed by the District Collector and continued payment of minimum wages as prescribed. It also stipulated that workers who had completed two years of service would be considered as skilled labour. Further, the settlement acknowledged that a tea break of 10 minutes and a lunch break of one hour would be provided during shift timings. However, despite being a party to this settlement, the respondent was terminated from service by an order dated 29.01.2016 (Ex.W5). The dismissal was carried out without conducting any domestic enquiry, on the purported ground that the atmosphere was not conducive for holding the same.

28. As against the dismissal, he raised an industrial dispute before the Govt. Labour Officer, Vellore vide his representation dt. 2.1.2017(Ex.W6). As the officer could not bring about mediation, he gave his failure report dt. 17.4.2017. On the strength of the failure report,

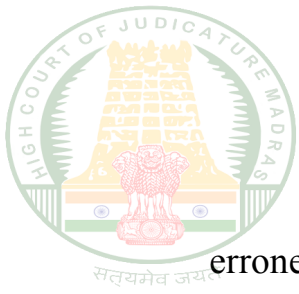


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he filed a claim statement before the Labour Court, Vellore dt. 2.1.2018.

The dispute was taken on file as I.D.No.2/2018 and notice was ordered to the Management. The Management filed a written statement dt. 30.4.2018. Before the labour court the workman examined himself as WW1 and marked six documents as Ex.W1 to Ex.W6.

29. On behalf of the management, three witnesses were examined, namely, S. Jayavel (MW1), S. Gopi (MW2), and L. Suresh Kumar (MW3). The management filed five documents, which were marked as Ex.M1 to Ex.M5. A compact disc containing a recorded conversation was submitted and marked as Ex.MO1. Similar to the other Industrial Dispute case, the Labour Court overruled the objection and permitted the management to prove the charges before the court, relying on the Firestone case (cited supra). However, the entire procedure adopted by the Labour Court was fundamentally flawed. If the management intended to prove the charges for the first time before the Labour Court, the correct approach would have been to allow the management to lead evidence first, followed by the workman's rebuttal. Unfortunately, the Labour Court reversed this order of procedure, which was clearly

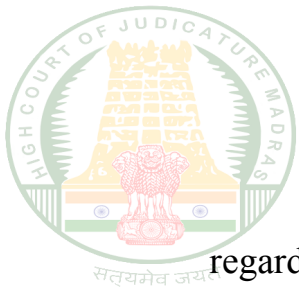


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erroneous.

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30. The Labour Court, after analyzing the evidence placed before it, concluded that even if the charges were proved, they would constitute only minor misconduct, and the punishment of dismissal was grossly disproportionate. Regarding the second issue, the Labour Court observed that the slogans raised were directed against the management, and it was necessary for the specific words used in those slogans to be clearly stated and proved. During the examination of MW2, who marked Ex.MO1, it became evident that the CCTV footage had not been preserved. Furthermore, even after listening to the recorded conversation on the compact disc, the Court found that it could not be construed as threatening. Instead, the recording merely indicated that the workers were requesting MW2 to resolve the dispute, and at a few points during the lengthy conversation, MW2 was addressed in a singular form. Concerning the alleged threat to MW3 regarding the revocation of suspension, the Court held that the nature of the conversation could, at best, be considered minor misconduct. The workman's representation



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regarding their service grievances was something that MW2 was obligated to address, a fact which was also admitted by MW2 during the proceedings. The Labour Court noted the absence of any prior instances of misconduct on the part of the workman and, therefore, held that the dismissal was unjustified. Consequently, it directed the reinstatement of the respondent with continuity of service, albeit with 50% of back wages.

31. There is no necessity to reiterate the issues already considered and the legal provisions cited earlier in the case of the respondent in W.P.No.5133/2020, as they have been comprehensively dealt with. The findings rendered in favor of the respondent in that writ petition would equally extend to the respondent in the second writ petition as well. It would suffice to observe that the Labour Court had taken into account the relevant legal parameters while exercising its discretion to interfere with the punishment imposed on both workmen. While granting relief, the Labour Court made a clear distinction between the two cases by denying back wages entirely in the first case and awarding 50% back wages in the second case, considering that the proved misconduct amounted to minor misconduct.



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32. In the aforesaid circumstances, this Court finds no justification to interfere with the impugned award, which is both legal and proper. The extraordinary jurisdiction vested in this Court cannot be invoked to disturb the finding of fact rendered by the Labour Court. The Supreme Court, in **Management of Madurantakam Coop. Sugar Mills Ltd. v. S. Viswanathan** reported in 2005 (3) SCC 193, has held as follows:

“Normally, the Labour Court or the Industrial Tribunal, as the case may be, is the final court of facts in these type of disputes, but if a finding of fact is perverse or if the same is not based on legal evidence the High Court exercising a power either under [Article 226](#) or under [Article 227](#) of the Constitution of India can go into the question of fact decided by the Labour Court or the Tribunal. But before going into such an exercise it is necessary that the writ court must record reasons why it intends reconsidering a finding of fact. In the absence of any such defect in the order of the Labour Court the writ court will not enter into the realm of factual disputes and finding given thereon.”

33. Further, in **Iswarlal Mohanlal Thakkar v. Paschim Gujarat Vij Company Ltd.**, reported in 2014 (6) SCC 434, the Supreme Court held as follows:

“The High Court has not applied its mind in setting aside the judgment and award of the labour court in exercise of its power of judicial review and superintendence as it is



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patently clear that the labour court has not committed any error of jurisdiction or passed a judgment without sufficient evidence. The impugned judgement and order of the High Court deserves to be set aside and the award and judgment of the labour court be restored.”

34.In view of the above findings, both writ petitions are devoid of merit and are accordingly dismissed. Consequently, all connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

02.04.2025

ay

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To

The Presiding Officer,
Principal Labour Court,
Vellore.



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W.P. Nos.5133 & 5135 of 2020

DR. A.D. MARIA CLETE, J

ay

Pre-Delivery Judgment made in
W.P.Nos. 5133 & 5135 of 2020
and
W.M.P.Nos. 6065, 6067, 23171, 23186
and 23188 of 2020

02.04.2025