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W.P. No. 7253 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON	02142025
PRONOUNCED ON	12/03/2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. No.7253 of 2020

Muthukumarasamy,
No.18, Anitha Nagar,
4th Cross Street,
Mudaliarpet, Puducherry

... Petitioner

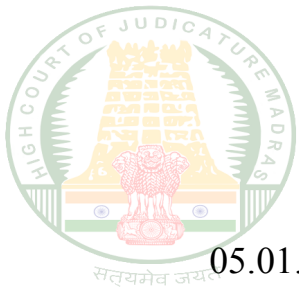
Vs.

The Managing Director,
M/s. M.R.F. Limited, Eripakkam,
Nettapakkam Commune,
Puducherry.

...Respondent

Prayer in W.P :

To issue a writ of Certiorarified Mandamus or any other appropriate writ, order or direction in the nature of writ, calling for the records relating to the order dated 09.12.2019 made in ID.(L).No. 28 of 2016 on the file of the Industrial Tribunal, Puducherry and the order of termination dated



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05.01.2015 passed by the respondent and quash both as illegal and consequently direct the respondent to reinstate the petitioner with all attendant and mandatory benefits with back wages and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of this case.

Appearance of Parties:

For Petitioner: Ms. D. Rajkumari, Advocate for M/s. K. Sasindran,
Mr. P. Suresh Babu, Ms. D. Saraswathi, Advocates.

For Respondent: Mr. Anandakrishnan Gopalan, Advocate
for M/s. Agam Legal, Advocates.

J U D G M E N T

Heard.

2. The petitioner, a workman, was employed as a mechanic in the respondent company. Challenging his termination dated 05.01.2015, he raised an industrial dispute before the Conciliation Officer through his letter dated 12.01.2015. The respondent management submitted a reply, though undated. As the Conciliation Officer was unable to facilitate a



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settlement, he forwarded a failure report to the Government of Puducherry. Consequently, through G.O.Rt.No.113/AIL/LAB/T/2016 dated 05.12.2016, the Government of Puducherry referred the dispute for adjudication to the Industrial Tribunal at Puducherry.

3. On receipt of the reference, the Industrial Tribunal took up the dispute as I.D.(L) No. 28/2016 and issued notice to both parties. On behalf of the Petitioner workman, a claim statement was filed dt. Nil. The Respondent Management filed a counter statement dt. 18.7.2017. Though in the counter statement the management reserved their right to file additional counter statement, they did not do so. Before the labour court, on behalf of the Petitioner Workman he had examined himself as PW1 and on his side filed 7 documents which were marked as Ex.P1 to Ex.P7. On the side of the management, three witnesses were examined i.e. RW1, RW2, and RW3 and other side 29 documents were filed which were marked as Ex.R1 to Ex.R29.

4. The Labour Court, as required, framed a preliminary issue to determine whether the domestic enquiry conducted by the management was fair and proper. In paragraph 13 of the impugned award, it concluded



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that there was no violation of the principles of natural justice. It further held that the allegation regarding the non-supply of documents to the workman was unfounded and, in any case, there was no absolute obligation to provide copies of all documents.

5. However, in paragraphs 22 to 27, the Labour Court relied on certain decisions arising from service law cases. In the context of proceedings before Labour Courts, particularly in a reference under Section 10(1) of the Industrial Disputes Act, the adjudication must be guided by the principles laid down under Section 11A of the Act. The scope of Section 11A was first examined by the Supreme Court in *Workmen of Messrs Firestone Tyre and Rubber Company vs. Management & Ors.*, reported in 1973 (1) SCC 813, wherein it was held that Labour Courts are empowered to review the evidence recorded by the employer, reassess it, and even take a different view if warranted. Consequently, industrial adjudicators now exercise appellate powers, allowing them to interfere with the employer's decision, including the penalty imposed, if found disproportionate. Unfortunately, the Labour Court in this case relied on incorrect precedents, demonstrating a misunderstanding that requires correction.

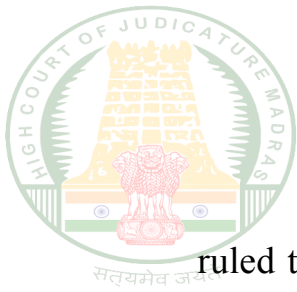


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6. However, upon evaluating the evidence, the Labour Court considered all the materials on record and concurred with the findings of the Enquiry Officer, affirming that it was not a case of "No Evidence." While the Labour Court correctly appreciated the evidence, it is important to note that in its conclusion, particularly in paragraph 36, it stated that if the Tribunal finds the enquiry proceedings were not perverse and were conducted in accordance with the principles of natural justice, there would be no necessity to interfere with the findings of the Enquiry Officer.

7. Regarding the alleged disproportionate nature of the penalty, the Labour Court found that the petitioner had unlawfully benefited by receiving a salary for his period of absence, thereby causing financial loss to the respondent company. Additionally, it noted that he had made proxy entries for Mr. Allane, facilitating an unlawful gain for another supervisor. Based on these findings, the Labour Court concluded that the punishment of dismissal was justified and not disproportionate. It further held that no relief could be granted to the workman. Although the petitioner claimed to be the vice president of a trade union affiliated with INTUC, the Tribunal



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ruled that in cases of proven misconduct, the plea of victimization could not be sustained.

8. The counsel for the workman referred to the judgment of the Orissa High Court in *Debi Prasad Mohanty v. Chief Executive Officer, CESCO & Ors.*, reported in MANU/OR/0803/2017. However, this case pertained to government employees and, in that context, referred to Rule 15 of the Orissa Civil Service CCA Rules, 1962, which mandates that documents forming the basis of the memorandum of charges must be supplied to the delinquent employee.

9. In its counter affidavit, the respondent management explained the circumstances under which Mr. Allane was not examined. In paragraph 10 of the counter affidavit, it was stated that the show cause notice issued to Mr. Allane was marked as Ex.R11, and his reply was marked as Ex.R12. It was further noted that he had resigned from the company's service, with his resignation letter and its acceptance being marked as Ex.R13 and Ex.R14, respectively. Moreover, the management contended that Mr.



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Allane was not a crucial witness concerning the charges leveled against the petitioner workman.

10. Under these circumstances, no grounds warrant interference with the impugned award of the Labour Court. Accordingly, the writ petition in W.P. No. 7253 of 2020 stands dismissed. However, there shall be no order as to costs.

12.03.2025

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

To

The Industrial Tribunal
Puducherry.



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DR. A.D. MARIA CLETE, J

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Pre-Delivery Judgment made in
W.P. No.7253 of 2020

12.03.2025