



W.P.No.8670 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8670 of 2012

And

M.P.No.1 of 2012

State Bank of India,
Rep. by the Deputy General Manager
Zonal Office Maduram Complex
Dr.Ambedkar Road
Madurai – 2.

... Petitioner

Vs.

The Zonal Secretary
State Bank of India
Ambedkar Trade Union
No.2, Dr.Ambedkar Road,
Zonal Office, Madurai – 3.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for records pertaining to order dated 24.08.2011 in I.D.No.82 of 2009 on the file of the Central Government Industrial Tribunal – cum Labour Court, Chennai and quash the same as illegal and arbitrary.

For Petitioner	: Mr.C.Mohan for M/s.King and Partridge
For Respondent	: Ms.T.Rajeswari & Ms.C.Najitha Shahabas Legal Aid Counsel



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for records pertaining to order dated 24.08.2011 in I.D.No.82 of 2009 on the file of the Central Government Industrial Tribunal – cum – Labour Court, Chennai and quash the same as illegal and arbitrary.

2.The learned counsel appearing for the petitioner submitted that one Senthil Kumar, a member of the respondent union was working as Messenger at Rajapalayam Branch. It was reported that on 16.10.2003 the said Senthil Kumar caused bleeding injury in the neck of one Prabakaran another workman in the same branch and hence, he was called upon to submit explanation and after careful consideration of the explanation submitted by the said Senthil Kumar, the disciplinary authority issued charge sheet dated 01.03.2004 to him and after enquiry, vide order dated 14.02.2006 imposed the punishment of stoppage of increment for ten years with effect from 14.02.2006 and aggrieved by the same, the said Senthil Kumar preferred appeal before the appellate authority and the appellate authority confirmed the punishment.



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3.The learned counsel appearing for the petitioner further submitted that thereafter, the respondent raised industrial dispute in I.D.No.82 of 2009 on the file of the Central Government Industrial Tribunal – cum – Labour Court, Chennai and the Tribunal passed the impugned order reducing the punishment of stoppage of increment for ten years with effect from 14.02.2006 as the punishment of stoppage of increment for two years with effect from 14.02.2006.

4.The learned counsel appearing for the petitioner further submitted that the present case is not the case of discharge or dismissal, the punishment imposed is only stoppage of increment and the respondent union raised industrial dispute under Section 2k of the Industrial Disputes Act, in which the Tribunal have no power to exercise Section 11 A of the Industrial Disputes Act. In the present case, the Tribunal without any jurisdiction modified the punishment from ten years to two years, which is not sustainable one. In support of his contentions, the learned counsel relied upon the decision of the Hon'ble Apex Court reported in **(2006) 5 SCC 201 [South Indian Cashew Factories Workers' Union Vs. Kerala State Cashew Development Corporation Limited and Others]**.



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5.The learned legal aid counsel appearing for the respondent submitted that one Senthil Kumar, a member of the respondent union is alleged to have caused bleeding injury in the neck of one Prabakaran another workman in the same branch on 16.10.2003 but the same was established during enquiry, however, he was imposed with the punishment of stoppage of increment for ten years with effect from 14.02.2006 and challenging the same, industrial dispute was raised before the Central Government Industrial Tribunal – cum – Labour Court, Chennai and the Tribunal after adjudication modified the punishment to that of stoppage of increment for two years with effect from 14.02.2006, which cannot be interfered under Article 226 of the Constitution of India since it does not suffer any perversity. In support of their contentions, the learned legal aid counsel relied upon the decision of the Hon'ble Apex Court reported in **2013 SCC OnLine Mad 1737 [The Cuddalore District Central Co-operative Bank Limited Vs. The Presiding Officer, Labour Court and another]**.

6.Heard the arguments advanced on either side and perused the materials available on record.



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7. For better appreciation, Section 11A of the Industrial Disputes

Act, 1947 is extracted hereunder:

"11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.- Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require:

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall



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not take any fresh evidence in relation to the matter.”

8.Perusal of Section 11A of the Industrial Disputes Act, 1947 which was inserted by Act 45 of 1971, w.e.f. 15-12-1972, makes it clear that where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal.

9.In the present case, it is not the case of discharge or dismissal, the punishment imposed on the member of the respondent union is only stoppage of increment and the respondent union raised industrial dispute under Section 2k of the Industrial Disputes Act, in which the



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Tribunal have no power to exercise Section 11 A of the Industrial Disputes Act.

10.It is useful to extract hereunder the relevant portion of the the decision of the Hon'ble Apex Court reported in **(2006) 5 SCC 201 [South Indian Cashew Factories Workers' Union Vs. Kerala State Cashew Development Corporation Limited and Others]**:

"16.The Labour Court had earlier held that the enquiry was properly held and there was no violation of the principles of natural justice and that the findings were not perverse. The vitiating facts found by the Labour Court against the enquiry are erroneous and are liable to be set aside. If enquiry is fair and proper, in the absence of any allegations of victimization or unfair labour practice, the Labour Court has no power to interfere with the punishment imposed. Section 11A of the Act gives ample power to the Labour Court to re-appraise the evidence adduced in the enquiry and also sit in appeal over the decision of the employer in imposing punishment. Section 11A of the Industrial Disputes Act is only applicable in the case of dismissal or



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discharge of a workman as clearly mentioned in the Section itself. Before the introduction of [Section 11A in Indian Iron and Steel Co. Ltd. v. Their Workmen](#) [(1958) SCR 667] this Court held that the Tribunal does not act as a Court of appeal and substitute its own judgment for that of the Management and that the Tribunal will interfere only when there is want of good faith, victimisation, unfair labour practice, etc. on the part of the management. There is no allegation of unfair labour practice, victimisation etc. in this case. The powers of the Labour Court in the absence of [Section 11A](#) is illustrated by this Court in [Workmen of Firestone Tyre and Rubber Co. of India \(Pvt.\) Ltd. v. The Management](#) [(1973) 1 SCC 813]. When enquiry was conducted fairly and properly, in the absence of any of the allegations of victimisation or malafides or unfair labour practice, Labour Court has no power to interfere with the punishment imposed by the management. Since [Section 11A](#) is not applicable, Labour Court has no power to re-appraise the evidence to find out whether the findings of the enquiry officer are correct or not or whether the punishment imposed is adequate or not. Of course, Labour Court can interfere with the findings if the



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findings are perverse. But, here there is a clear finding that the findings are not perverse and principles of natural justice were complied with while conducting enquiry.”

11.The decision cited supra makes it clear that if enquiry is fair and proper, in the absence of any allegations of victimization or unfair labour practice, the Labour Court has no power to interfere with the punishment imposed. In the present case, after due enquiry, the member of the respondent union was imposed with the punishment of stoppage of increment for ten years with effect from 14.02.2006 and hence, the Tribunal have no power to modify the punishment and the impugned order is liable to be set aside.

12.The decision relied upon by the learned legal aid counsel appearing for the respondent is not applicable to the present case since it relates to order of dismissal and the present case relates to minor punishment. However, this Court appreciates the effort taken by the learned legal aid counsel.

13.The writ petition is allowed. The order of the Central



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Government Industrial Tribunal – cum – Labour Court, Chennai in

I.D.No.82 of 2009, dated 24.08.2011, is set aside. No costs.

Consequently, connected miscellaneous petition is closed.

14.The State Legal Services Authority is directed to pay admissible fees to Ms.T.Rajeswari and Ms.C.Najitha Shahabas, learned Legal Aid Counsel appointed by this Court.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Central Government Industrial Tribunal – cum –
Labour Court, Chennai



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M.DHANDAPANI,J.
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