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W.P. No.10678 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10678 of 2022

G. Yuvaraj S/o. P. Govindasamy .. Petitioner

vs.

The Management,
SRF Limited,
Manali Industrial Estate,
Manali, Chennai - 600 068. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Award dated 20.12.2019 passed by the I Additional Labour Court, Chennai in I.D. No.473 of 2017 and quash the same after holding that the punishment of dismissal is grossly disproportionate, illegal, arbitrary and contrary to law and consequently direct the respondent to reinstate the petitioner with back wages, continuity of service and all other attendant benefits.

For Petitioner : Mr. A. Suresh Sakthi Murugan

For Respondent : Mr. Manohar Gupta for



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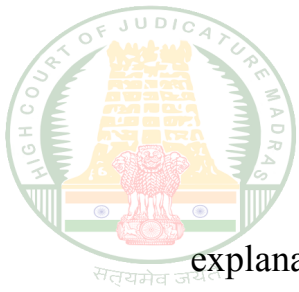
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Mr. Gupta Ravi

ORDER

This Writ petition has been filed to quash the Award passed in I.D. No.473 of 2017 dated 20.12.2019 on the file of the I Additional Labour Court, Chennai, wherein the petitioner raised an industrial dispute challenging the dismissal order passed by the respondent Management and to direct the respondent Management to reinstate the petitioner into service with continuity of service and backwages. The Labour Court, awarded compensation of Rs.1 lakh in lieu of reinstatement with continuity of service and backwages. Aggrieved by the said order, the present Writ petition has been filed by the petitioner workman.

2. The learned counsel for the petitioner would submit that the petitioner was appointed as a 'trainee' on 17.03.2008. The respondent Management issued a Charge Memo dated 08.08.2016 alleging that the petitioner was absented for 15 days without prior intimation or sanction of leave. The petitioner submitted his explanation dated 08.09.2016 that his wife was under treatment from March to August 2016 and she had undergone a Surgery in July 2016. Further, the petitioner had already on 5 earlier occasions for the same misconduct of 'unauthorised absence'. Even after the



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explanation submitted by the petitioner, the respondent conducted a domestic enquiry and without providing opportunity for cross examining the Management side witnesses, the enquiry was conducted and thereafter, the Enquiry Officer sent the enquiry report stating that the charges against the petitioner were proved. The respondent also issued a second Show Cause Notice on 06.09.2016 for the proposed punishment of dismissal and the same was also suitably replied, but without considering the reply, the respondent passed the order by dismissing the petitioner from service on 04.10.2016. Since conciliation failed, the petitioner filed a petition before the Labour Court under Section 2 A(2) of the Industrial Disputes Act challenging the said dismissal order.

2.1. The Labour Court erroneously confirmed the dismissal order, however, directed the respondent Management to pay compensation of Rs.1 lakh in lieu of reinstatement with continuity of service with backwages and other benefits. The Labour Court failed to consider that the petitioner was not offered any opportunity to cross examine the management side witness in the domestic enquiry proceedings and the Management failed to produce the witness before the Labour Court. The enquiry was conducted on a single day. The petitioner has not permitted to submit the documents before the enquiry



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officer and the same was not considered by the Labour Court. The Labour Court failed to consider the genuine reason that the petitioner had taken the leave with prior intimation to the respondent Management for his wife's medical treatment. The petitioner availed leave with prior intimation and the absence of 15 days is not in consecutive days and those were taken on different dates during one year. The Management did not prove the enquiry report to the petitioner before issuing the 2nd Show Cause Notice. Moreover, the punishment of dismissal is highly disproportionate. Therefore, the order passed by the Labour Court is not in accordance with law and the same is liable to be quashed.

3. The learned counsel appearing for the respondent would submit that the petitioner remained unauthorized absence for 15 days without prior intimation to the respondent company. Therefore, for the above said misconduct, the Management issued a Charge Memo dated 08.08.2016 and thereafter, the petitioner also submitted his explanation. Being not satisfied with the explanation, the Management decided to conduct a domestic enquiry. An enquiry officer was appointed and enquiry was conducted. The petitioner also participated in the enquiry proceedings. On the side of the Management, one witness was examined, but the petitioner did not cross examine the



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witness. The petitioner himself was examined as witness. Therefore, sufficient opportunity was given to the petitioner in the domestic enquiry proceedings. Thereafter, the Enquiry Officer rendered his findings that the charges against the petitioner were proved and the same was accepted by the Disciplinary Authority and after providing opportunity to the petitioner, the Disciplinary Authority imposed punishment of dismissal from service.

3.1. The reason submitted by the petitioner for his unauthorized absence is the medical treatment of his wife, but he has not produced any medical record to prove the same before the Disciplinary Authority. Before the Labour Court, the copy of the letter along with medical records marked as Ex.W.1. The Labour Court also after elaborate discussion, came to a conclusion that the wife of the petitioner was first examined by the Doctor on 29.07.2016, the duration of illness was stated to be 10 years, she has been reporting for the continuation of treatment on various dates, the treatment at the most for a week in the month of July 2016 and it is highly unacceptable to take this reason as a justifiable one for the absence of the petitioner for nearly 15 days from 02.04.2016 to 29.06.2016. The petitioner was unable to give a valid explanation for his absence on various dates. However, the Labour Court awarded compensation of Rs.1 lakh. Therefore, the Labour Court has



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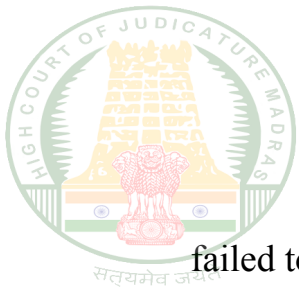
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passed a reasoned order and the same need not be interfered and the present petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute with regard to the relationship between the parties as 'employer' and 'workman' and also there is no dispute that the petitioner was absented for duty. According to the petitioner, he informed about his leave. According to the respondent, without any intimation, the petitioner availed leave on various dates, therefore, it amounts to misconduct.

6. According to the petitioner, before the Enquiry Officer, no opportunity was given to him, thereby, the principles of natural justice have not been followed. In this context, it is seen from the records that on the side of the Management, one witness was examined and on the side of workman, the petitioner was examined as a witness. The petitioner failed to cross examine the management side witness, whereas the Management cross examined the petitioner. Though opportunity was given to the petitioner, he

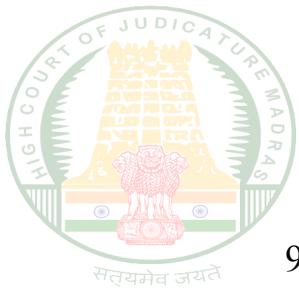


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failed to cross examine the witness on the side of the Management. Therefore, the disciplinary proceedings were conducted by giving adequate opportunity to the workman.

7. As far as the punishment is concerned, already the Management had given warnings to the petitioner and thereafter, issued 2nd Show Cause Notice after accepting the findings of the Enquiry Officer, then only the Management imposed punishment. However, the Labour Court awarded a sum of Rs.1 lakh and the Management also not disputed the said amount. The Labour Court considering the service of the petitioner for nearly 10 years, awarded compensation of Rs.1 lakh. Therefore, there is no illegality or perversity found in the order passed by the Labour Court.

8. As far as the quantum of punishment awarded by the Disciplinary Authority is concerned, for the unauthorized absence, they awarded a punishment of 'dismissal from service'. The petitioner was removed from service on 04.10.2016 and after 8 years, it is not appropriate to reinstate the petitioner into service. Instead of reinstatement, it is appropriate to enhance compensation. Already the Labour Court awarded compensation of Rs.1 lakh to the petitioner. Therefore, this Court is inclined to enhance the compensation amount from Rs.1 lakh to Rs.2.5 lakhs.



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9. The respondent Management is directed to pay a sum of **Rs.2.5 lakhs (Rupees Two Lakhs and Fifty Thousand only)** to the petitioner within a period of **2 (two) months** from the date of receipt of a copy of this order, failing which, the Award will carry interest @ 12%.

10. In view of the above directions, the Writ petition is ***partly allowed***.

There shall be no order as to costs.

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Index : Yes/No.
Speaking order/non-speaking order
mjs

P. DHANABAL, J.,

mjs

To

The Management,
SRF Limited,
Manali Industrial Estate,
Manali, Chennai - 600 068.

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