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W.P.No.6378 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.6378 of 2013

And

M.P.Nos.1 to 3 of 2013

The Superintending Engineer,
Coimbatore Electricity Distribution Circle/South,
Tamilnadu Electricity Board,
Coimbatore – 12.

... Petitioner

Vs.

1.The Presiding Officer
Labour Court,
Coimbatore.

2.T.Babu

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in relation to the award passed I.D.No.517 of 2004 dated 29.06.2007 and quash the same as illegal.

For Petitioner : Mr.C.Ram Kumar

For Respondents : R1 – Labour Court
Mr.V.Ajoy Khose for R2



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the first respondent in relation to the award passed I.D.No.517 of 2004 dated 29.06.2007 and quash the same.

2.The learned counsel appearing for the petitioner submitted that the second respondent joined as Helper in the petitioner board service on 03.07.1986 and was promoted as lineman on 02.09.1992. On 07.02.2002 while inspecting S.C.No.314/3A in Moopiripalayam distribution, the flying squad of the Board found theft of energy by one consumer namely, K.Shanmugam and he was penalized for the theft of energy to the tune of Rs.1,28,502/-. The said K.Shanmugam admitted the theft of energy and paid the penalty amount. The said consumer lodged complaint dated 13.05.2002 to the AEE/Rural North stating that the energy theft was committed with the help of the second respondent, pursuant to which, departmental proceedings were initiated against the second respondent and the same ended in compulsory retirement. The said order was challenged by the second respondent under Section 2(a)(2) of the Industrial Disputes Act before the first respondent in I.D.No.517 of 2004 and the first respondent



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vide impugned order dated 29.06.2007 directed the petitioner to reinstate the second respondent with continuity of service and without backwages and other benefits.

3.The learned counsel appearing for the petitioner further submitted that on the basis of the complaint made by the said K.Shanmugam, enquiry was conducted and during enquiry the guilt as against the second respondent was established, thereby the Enquiry Officer drawn proven minute and on the basis of the proven minute, second show cause notice was issued to the second respondent and thereafter, order of compulsory retirement was passed.

4.The learned counsel appearing for the petitioner further submitted that even before the Labour Court, the second respondent pleaded to modify the punishment and he did not dispute the charge levelled against him, however, the Labour Court passed the impugned order which is not sustainable one. The learned counsel further submitted that aggrieved by the denial of backwages, the very same second respondent filed W.P.No.26379 of 2008 before this Court and this Court vide order dated 16.08.2024 dismissed the said writ petition.



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5.Per contra, the learned counsel appearing for the second respondent submitted that even assuming that there was commission of electricity theft, there is no monetary loss since the said K.Shanmugam admitted the guilt and paid the entire loss, thereby the Labour Court rightly passed the impugned order. The learned counsel further submitted that only when the order of the Labour Court is perverse or arbitrary, this Court can interfere with the same, however, in the present case, the impugned order is neither perverse nor arbitrary and hence, the same warrants no interference.

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

7.The facts of the case is not in dispute. The employer and employee relationship between the petitioner and the second respondent is not disputed. On 07.02.2002, the flying squad of the petitioner Board found theft of energy by one consumer namely, K.Shanmugam and he was penalized for the theft of energy to the tune of Rs.1,28,502/- and the said amount was paid by the said K.Shanmugam. However, the said K.Shanmugam lodged complaint



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alleging that the energy theft was committed with the help of the second respondent, pursuant to which, departmental proceedings were initiated against the second respondent and the same ended in compulsory retirement. Before the Labour Court, the second respondent did not dispute the charge levelled against him and he only pleaded to modify the punishment.

8. When the second respondent himself only pleaded to modify the punishment, the Labour Court passing the impugned order directing the petitioner to reinstate the second respondent with continuity of service and without backwages and other benefits, is not sustainable one.

9. In view of the above, this Court modify the punishment of compulsory retirement to that of five years stoppage of increment with cumulative effect. The second respondent is entitled for continuity of service from the date of compulsory retirement till the date of superannuation and the second respondent is not entitled for backwages and other benefits. It is made clear that continuity of service is only for the purpose of calculation of pensionary benefits.



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M.DHANDAPANI,J.
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10.The writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

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

To

1.The Presiding Officer
Labour Court,
Coimbatore.

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