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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.11389 of 2022

D.Marudhamalai David,
(EMP.No.102265)

... Petitioner

Vs

The Management of MRF Limited,
P.B. No.5285,
Thiruvottiyur High Road,
Chennai – 600 009.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records in connection with impugned order passed by the Presiding Officer of learned II Additional Labour Court, Chennai granting approval on 17.12.2020 in A.P.No.4 of 2015 in I.D.No.318 of 2012 and quash the same.

For Petitioner : Mr.V.Prakash, Senior Counsel for
Mr.K.Krishnamoorthy

For Respondent : Mr.Anandgopalan



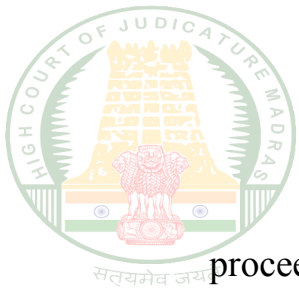
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ORDER

This writ petition has been filed by the petitioner to quash the order passed in A.P.No.4 of 2015 in I.D.No.318 of 2012 on the file of II Additional Labour Court, Chennai dated 17.12.2020.

2. The short facts necessary to dispose of this Writ Petition are as follows:-

The petitioner joined the service of the respondent factory on 26.09.1994 as an operator and subsequently he was confirmed in the service in 11 D Banbury Unit in the year 1996. The petitioner is one of the active members of the trade Union. While so, the respondent Management issued a charge memo dated 04.02.2014 alleging that the petitioner had committed misconduct under clause 13(6) of the Standing Order by availing 34 days leave from July 2013 to December 2013. For the said charge memo, the petitioner had given reply on 12.02.2014, but the same was not accepted by the respondent management and the domestic enquiry was conducted. Thereafter, the enquiry officer submitted his report stating that the charge against the petitioner was proved. Meanwhile, the petitioner was issued with another charge memo dated 24.02.2014 alleging that the misconducts under clauses 13(11) & 13(23) of the Standing Order. The disciplinary



proceedings were initiated and after enquiry, the enquiry officer rendered findings that the charges against the petitioner were proved. Thereafter, the respondent management issued order of termination to the petitioner on 12.03.2015. The respondent management sought for approval to both the enquiries and the Presiding Officer granted approval. Now, aggrieved by the said order, the petitioner has filed the present writ petition.

3. The learned Senior Counsel for the petitioner would submit that the petitioner was joined as an operator. While so, on 04.02.2014 a charge memo was issued to him with false allegations and the same was suitably explained, again on 24.02.2024 another charge memo was issued and the same was also explained. Despite the explanations submitted by the petitioner, the management conducted domestic enquiry without following the principles of natural justice, finally an order of dismissal from service was awarded as punishment to the petitioner. For approval of the said punishment, the management filed approval petition before the Labour Court. The management has not complied the mandatory proceedings under Section 33 of I.D. Act. The respondent management failed to pay the entire one month salary to the petitioner and the Labour Court has not gone into those aspect. The respondent/management failed to comply the mandatory



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requirements under proviso to Section 33(2)(b) of I.D. Act. While dismissing the petitioner/workmen, without paying one month wage which includes basic pay, variable dearness allowances, agreement benefit, additional DA, Special Personal pay, service weightage, incentive, house rent allowances, washing allowances, medical allowance and all other allowances filed the approval petition. However, the Labour Court failed to consider the above said aspects and without discussing the same, granted the approval. Therefore the above said order is against law and the same is liable to be set aside. Since the Labour Court has failed to discuss about the payment of one month salary and the management also not even produced the salary certificate and in order to give a fair chance, the case may be remitted back to the Labour Court for fresh consideration by setting aside the order of the Labour Court.

4. The learned counsel appearing for the respondent would submit that the petitioner committed serious misconduct and thereby the domestic enquiry was conducted by following the principles of natural justice and one month salary was paid to the petitioner at the time of serving the dismissal order and the petitioner has not disputed the enquiry proceedings conducted by the management and by following the principles of natural

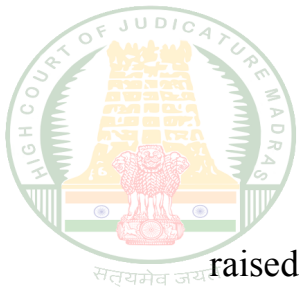


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justice, disciplinary enquiry was conducted and there is a prima facie case made out based on the acceptable evidence and there is no victimisation and the approval petition was also filed simultaneously and immediately after the dismissal order passed against the petitioner. Therefore, all the guidelines issued by the Hon'ble Supreme Court in the case of **Lalla Ram Vs. DCM Chemical Works Ltd, reported in 1978 AIR(SC) 1004**, have been followed. The petitioner has not stated anything about the particulars of salary and what is the difference to be paid to the petitioner has not been pleaded in the counter filed before the approval authority, and the petitioner only denied that no one month salary was paid. Without any details, the contention of the petitioner is not acceptable. Hence, the Labour Court has passed reasoned and detailed order and the present writ petition is liable to be dismissed.

5. This Court heard both sides and perused the materials available on record.

6. In this case, there is no dispute in respect of the fairness in conducting the enquiry proceedings. The petitioner also not disputed the opportunity given to him in the enquiry proceedings. The only contention



raised by the petitioner is that one month salary has not been fully paid to the petitioner. The respondent disputed the one month salary and according to him, the management had paid only the basic salary and other allowances were not included in the salary.

7. The learned counsel appearing for the respondent would submit that there is no details of difference amount to be paid to the petitioner and the same has not been pleaded and merely in the counter, they have stated that no one month salary was paid. Therefore, it is the duty of the petitioner to mention about the violations committed in the payment of one month salary.

8. In reply, the learned Senior Counsel appearing for the petitioner would submit that once the petitioner denied the payment of one month salary, it is the duty of the management to prove that the entire one month salary has been paid. In support of his contentions, he also relied upon judgment of Hon'ble Supreme Court in the case of **S.Ganapathy and Others Vs Air India and Another reported in (1993) 3 SCC 429**, wherein, it held as follows;

14. At this juncture, it would add to our understanding if we reproduce a passage from Bharat Electronics case. It is:



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"Before concluding the judgment the observations in Syndicate Bank's case, afore- quoted, are again to be borne in mind. In the facts and circumstances of this case the management paid to the workman a sum of Rs.607.90 as a month's salary "to soften the rigour of unemployment that will face the workman". Flow could a short payment of Rs. 12 he said to have lessened the softening of such rigour is thought stirring. Viewed in the context, there could genuinely be a dispute, as in the present case, as to whether a particular sum was due as wages. It is, of course, risky for the management to raise it as to pay even a paise less than the month's wages due under [section 33\(2\) \(b\)](#), would be fatal to its permission sought. But at the same time it needs to be clarified that it is for the management to establish, when questioned, that the sum paid to the workman under [section 33\(2\) \(b\)](#) represented full wages of the month following the date of discharge or dismissal, as conceived of in the provision and as interpreted by us in entwining the ratios in Bennett Coleman's case (supra) and Dilbagh Rai Jarry's case (supra) and adding something ourselves thereto."

On a careful perusal of the judgment, it is clear that even a paise less than the month's wages due under [section 33\(2\) \(b\)](#), would be a fatal to its permission sought. But at the same time it needs to be clarified that it is for the management to establish, when questioned, that the sum paid to the workman under [section 33\(2\) \(b\)](#) represented full wages of the month following the date of discharge or dismissal, as conceived of in the provision.

9. In the case on hand, the respondent management paid salary of



Rs.18,181/-. In the counter, the petitioner denied the one month salary paid to him therefore, it is the duty cast upon the management to prove that the amount paid is the actual salary to be paid to the petitioner. However, in order to prove the same, respondent management failed to produce the salary certificate of the petitioner. Further, the learned counsel appearing for the petitioner also relied on the judgment of this Court in

(i) M.Madhan Vs. Management of MRF, Represented by its Managing Director, reported in 2024 SCC Online Mad 5376 and

(ii) The Management, Tamil Nadu State Transport Corporation Vs. S.Venkatraman and another reported in 2011 SCC Online Mad 2849;

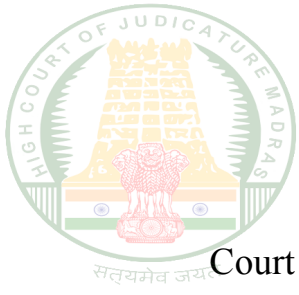
On the careful perusal of the above judgment it is clear that the expression 'wages' as appreciated and understood by the provision will signify the correct amount so payable to an Employee. If an increment is due at the relevant point of time, the wages as contemplated as per Section 33(2)(b) of the Act ought to be computed by including the due increment. Failure of the Employer to include the increment in the wages paid at the time of dismissal will constitute non-compliance of the requirements of the proviso and is compulsory for the management to pay the full wages of a



month for which, the workmen be entitled to under the express or reply terms of employee.

10. Admittedly, in the case on hand, no salary slip was marked by the management when the petitioner specifically denied the payment of entire salary. The Labour Court also in the order failed to discuss about the one month salary paid to the petitioner. It is mandatory to the management to establish that one month salary was fully paid. While so, the Labour Court has not discussed anything about the payment of one month salary when the specific plea was raised by the petitioner. Therefore, the order passed by the Labour Court is to be set aside. Therefore, as rightly contended by the learned Senior Counsel appearing for the petitioner in order to give a fair chance to the management to prove that one month salary was paid, it is appropriate to remand back the matter to the Labour Court for fresh consideration, as to whether the entire one month salary was paid or not. Therefore, this Court is of the opinion that this writ petition has to be allowed by setting aside the order passed by the Labour Court.

11. In the result, this writ petition is allowed and the order passed by the Labour Court is set aside. The matter is remanded back to the Labour



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Court for fresh consideration as indicated above. No costs.

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To

The II Additional Labour Court, Chennai

P.DHANABAL, J.,

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