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W.P. No.24520 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.24520 of 2022

K. Ebinesan S/o. Kannan

... Petitioner

Vs.

The Management of
M/s. SIMPSON and Company Limited,
represented by its Managing Director,
SIPCOT Industrial Complex,
Hosur - 635 126.

[amended as per order dated 11.06.2025
in WMP No.16373 of 2024].

..... Respondent

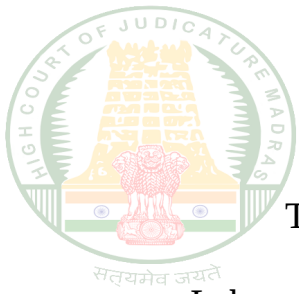
PRAYER: Writ Petition is filed under Article 226 of Constitution of India,

praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the Award dated 30.05.2022 passed in I.D. No.113 of 2019, CNR No.TNR1150002212019 (Old I.D. No.16/2017) on the file of the Labour Court, Hosur to set aside the same and consequently direct the respondent to pay all the retiral / monetary benefits from the date of dismissal upto date with interest at 9% per annum within the time stipulated by this Court.

For Petitioner : Mr. Siddharth Sridhar for
Mr. R. Bharath Kumar

For Respondents : Mr. P. Raghunathan for
M/s. T.S. Gopalan & Co.,

ORDER



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This Writ petition has been filed challenging the order passed by the Labour Court, Hosur in I.D. No.113 of 2019 dated 30.05.2022, wherein the petitioner herein has raised an industrial dispute challenging the termination order passed by the respondent Management and the same was dismissed. Aggrieved by the said order, the workman has filed this Writ petition.

2. The short facts necessary to dispose the Writ petition are as follows:-

The petitioner was working as an Operator in the respondent factory at Hosur. During the year 2014, he availed leave on 21.05.2014. The prevailing practice in the industry is that when an employee goes on an emergency leave, he will submit a leave application on the day he reports for working and the leave application will be ratified or granted by the superior officer to whom the employee reports. Accordingly, the petitioner submitted his leave application for his absence on 21.05.2014 to his superior officer Mr. Sundaravadivelu on 22.05.2014. Thereafter, the petitioner was issued with a Charge Memo alleging that the said Mr. Sundaravadivelu did not ratify the leave of the petitioner, but the petitioner had forged the signature of his superior officer Mr. Sundaravadivelu at the time of submitting his leave application. The leave letter and other documents of the petitioner were sent



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for expert opinion and as per the Expert opinion, the signature of the workman are tallied with the handwriting and signature found in the leave letter. The petitioner denied the charges and alleged that he was victimised only for the reason that he represented the problems of the workmen as an office bearer of the Union. Thereafter, the respondent Management without conducting any enquiry, straight away dismissed the petitioner from service through an order dated 07.08.2014. They also paid one month salary of Rs.12,764.22 to the petitioner and the same was received by him without prejudice to the rights of claiming reinstatement. The said order was challenged before the Labour Court, Hosur and the Labour Court dismissed the petition. Against which, the present Writ petition has been filed by the workman.

3. The learned counsel appearing for the petitioner would submit that the petitioner joined service on 30.04.1985 and thereafter, the petitioner was on leave on 21.05.2014. Immediately, on the next day i.e., on 22.05.2014, he submitted his leave letter to his higher authority Supervisor Mr. Sundaravadivelu and thereafter, at that time, the said Mr. Sundaravadivelu refused to sign stating that the leave was an uninformed leave and he would have to seek ratification from his higher authorities. Thereafter, the petitioner



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received a suspension order on 03.07.2014 and issued with a Charge Memo stating that "he was absented without prior approval on 21.05.2014 and he submitted his leave application for ratification on 22.05.2014 and when the Shift Supervisor informed the petitioner that he would have to consult the higher authorities before ratifying the leave, the petitioner threatened the Shift Supervisor and left the scene. Thereafter, on 26.05.2014, the petitioner's leave application was found in the leave letter box and on scrutiny of the same, it was found containing the forged signature of the Shift Supervisor. Thereafter, the said signature was sent to Forensic lab for examination and the forensic expert report confirmed that the signature of the supervisor was forged".

3.1. In fact, the Charge Memo was issued in English language and the petitioner could not read English and he sought a Tamil language copy of the charge sheet and the same was furnished to him on 18.07.2014. Thereafter, he filed his written submission on 22.07.2014 denying the charges. While so, without conducting any domestic enquiry, he was dismissed from service on 07.08.2014. After dismissing the petitioner from service, they furnished the copy of forensic expert report. Therefore, the principles of natural justice have not been followed and without domestic enquiry, the petitioner was



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dismissed from service. Thereafter, the petitioner raised the industrial dispute before the Labour Court. The Labour Court without considering the case of the petitioner in a proper perspective, erroneously had dismissed the petition by holding that the charges against the petitioner are serious in nature and by relying upon the forensic expert report. In fact, the admitted signatures have not been compared by the expert and the Management themselves sent some records as if those records were admitted by the petitioner. No copies of forensic records were furnished to the petitioner. The Labour Court, without considering the same, dismissed the petition. Therefore, the order passed by the Labour Court is liable to be quashed.

4. The learned counsel appearing for the respondent would submit that the petitioner was working under the respondent Management. While so, on 21.05.2014, he was unauthorizedly absent and on the next day i.e., on 22.05.2014, he submitted his leave application before his superior authority namely Sundaravadivelu. However, the Supervisor informed the petitioner that it is an unauthorized absence and thereby, he has to consult with the higher authorities and thereafter, he found that the signature of the Supervisor Sundaravadivelu in the leave application submitted by the petitioner was forged. Thereby, the Management sent the disputed signature along with the admitted handwritings of the said Sundaravadivelu as well as the petitioner



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for expert opinion and for comparison and the experts have also analysed the handwritings and opined that the signature found in the leave application submitted by the petitioner in the name of Sundaravadivelu is tallied with the admitted handwriting of the petitioner.

4.1. Therefore, the charge memo was issued on the petitioner and he has submitted his explanation and thereafter, considering the grave nature of the charges, the Management removed the petitioner from service through an order dated 07.08.2014. The petitioner forged the signature of the Supervisor Sundaravadivelu in the leave letter submitted by him on 22.05.2014 and also put the letter in the letter box of the company and the petitioner has also accepted to send the petitioner's signature to obtain forensic report. The Forensic Expert report dated 30.06.2014 was obtained and sent to the petitioner along with the dismissal order dated 07.08.2014. The Management, after getting the forensic report, convinced that there is a prima facie case against the petitioner and then proceeded further. Thereafter only, they issued the order of dismissal considering the grave nature of charges. Even before the Labour Court, the Management has examined witnesses in respect of the charges and proved their case. Therefore, the Labour Court has passed a reasoned order and this Court by exercising power under Article 226 of the



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Constitution of India need not set aside the order unless there is perversity.

Therefore, the Writ petition is liable to be dismissed.

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

6. It is an admitted fact that the petitioner was working under the respondent Management and he availed leave on 21.05.2014 and thereafter, on the next day, i.e., on 22.05.2014, he submitted his leave application before the Supervisor Mr. Sundaravadivelu. According to the Management, thereafter the said Sundaravadivelu came to know that the leave letter of the petitioner was found in the leave letter box and after seeing that he came to know that his signature was forged in the leave letter. Therefore, he informed the Management and the Management enquired the matter and sent for expert opinion and found that the petitioner had put the signature of the Supervisor Mr. Sundaravadivelu. Therefore, the Management issued Charge Memo on the petitioner and thereafter, dismissed the petitioner from service.

7. It is an admitted fact that after receiving the charge memo and the reply submitted by the petitioner, no domestic enquiry was conducted and without giving opportunity to the petitioner, the termination order was passed



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and the same is against the principles of natural justice. Even according to the respondent Management, they have not served the forensic expert report to the petitioner before passing the dismissal order and the forensic report was furnished to the petitioner only along with the dismissal order. Even according to the forensic report, there is no admitted signatures of the petitioner sent for comparison and the Management has only sent the documents available with them as if those documents contain the admitted handwritings of the petitioner. The Management solely relied upon the forensic expert opinion and dismissed the petitioner from service without giving any opportunity to him. Therefore, the termination order is vitiated by violation of principles of natural justice.

8. The Labour Court, without considering the same, dismissed the petition by placing reliance on the expert opinion. Even as per the Standing Orders in Clause 16(c) fraud or dishonestly in connection with the employer's business or property and Clause 16(j) disorderly behaviour and an act subversive of discipline, they are 'misconduct'. For the above said charges, without any enquiry, the petitioner was dismissed from service. The Labour Court ought not to have given importance to the forensic expert opinion.



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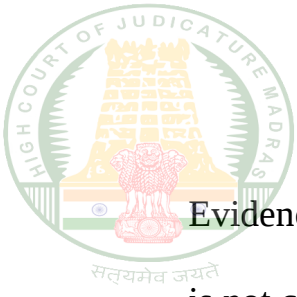
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9. At this juncture, the learned counsel appearing for the petitioner relied upon a judgment of ***Delhi High Court in State Bank of India vs. Presiding Officer and Anr in W.P. (c) 3643 of 2003***, wherein, the Delhi High Court in Para Nos.38 and 39, held as follows:-

38. *The main piece of evidence relied by the Disciplinary Authority was the opinion of the Handwriting Expert which is not a sterling piece of evidence as it is evident from the documents on record. It is true that rules of evidence do not apply to disciplinary proceedings but if prudence requires under Section 45 of the Evidence Act that expert opinion should be corroborated: then it is more so in disciplinary proceedings. The charge of forgery in the records is serious charge. The Disciplinary Authority should have taken every care to establish it by relevant material. When the evidence of the Handwriting Expert was shaky, the Disciplinary Authority shouldn't have gone ahead with a weak piece of evidence. There can be no doubt about the proposition that the Evidence of an Expert is a weak type of evidence, in the sense that, in itself, it is not clinching. Further, in absence of its corroboration, it could not be relied to hold that the charges on the basis of the shaky evidence of the Handwriting Expert was proved.*

39. *It is true that strict rules of evidence are not applicable to departmental proceedings. Howbeit, the only requirement of law is that the allegations against the delinquent must be established by such evidence acting upon which a reasonable person acting reasonably and with objectivity may arrive at the finding upholding the gravity of the charge against the delinquent employee. Further, it is settled principle of law that mere conjectures and surmises cannot sustain the finding of guilt in departmental enquiry proceedings as well".*

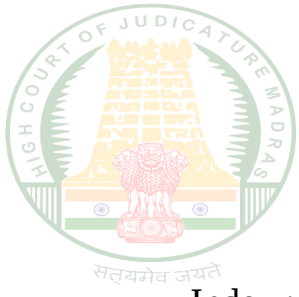
10. On a careful perusal of the above said judgments, it is clear that



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Evidence of an Expert is a weak type of evidence, in the sense that, in itself, it is not clinching. Further, in absence of its corroboration, it could not be relied to hold that the charges on the basis of the shaky evidence of the Handwriting Expert was proved. In the case on hand also, the Labour Court only relied upon the forensic expert opinion and came to a conclusion. When there is no any admitted signature of the petitioner to compare the handwriting, the Labour Court cannot rely upon the said forensic report. Therefore, the charges against the petitioner have not been proved and there are clear violation of principles of natural justice. Therefore, the order passed by the Labour Court is unsustainable and the same is liable to be quashed.

11. Accordingly, this Writ petition is partly allowed and the order passed by the Labour Court in I.D. No.113 of 2019 is set aside and since the petitioner has attained the age of superannuation on 02.05.2020 and the petitioner has not gainfully employed elsewhere, he is entitled for 50% backwages and full gratuity. The respondent Management is directed to pay 50% backwages from the date of termination till the date of his superannuation within **2 months** from the date of receipt of a copy of this order. No costs.



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Index : Yes/No

Speaking order/non-speaking order
mjs

To

1. The Presiding Officer,
Labour Court, Hosur.

2. The Management of
M/s. SIMPSON and Company Limited,
represented by its Managing Director,
SIPCOT Industrial Complex,
Hosur - 635 126.

P.DHANABAL, J.,

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