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W.P. No.26520 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.26520 of 2022

and

W.M.P. No.25581 of 2022

The Management of
Bombay Burmah Trading Corporation Ltd.,
Anaimudi Estate, Mudis Group 1st Part,
Mudis - 642 117,
Valparai Taluk, Coimbatore District.
represented by its Manager. .. Petitioner

vs.

Karuppusamy S/o. Late Madasamy. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the Additional Labour Court, Coimbatore in I.D. No.51 of 2019 and quash its preliminary award dated 23.09.2019 and final award dated 14.06.2022.

For Petitioner : M/s. Anand Gopalan
for Mr. Haroon Al Rasheed

For Respondent : Mr. K.M. Ramesh, Senior Counsel
for M/s. V. Subramani

ORDER

This Writ petition has been filed by the petitioner Management



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challenging the award passed by the Labour Court in I.D. No.51 of 2019 dated 14.06.2022.

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

The respondent was working as a 'workman' in the petitioner Management and he was charged for illegal construction of Tea shop owned by the petitioner Management. Thereafter, a domestic enquiry was initiated by the Management by appointing an Enquiry Officer, an enquiry was conducted and the Enquiry Officer rendered findings that the charges against the respondent were proved and thereafter, the petitioner Management, after affording opportunity to the respondent, passed an order by terminating the respondent from service and the same was challenged by the respondent in I.D. No.51 of 2019. The Labour Court initially in the preliminary enquiry framed issues in respect of the fairness of the domestic enquiry proceedings and held that the Enquiry Officer has not conducted the enquiry fairly and properly and the findings of the Enquiry Officer is perverse and the proceedings in the domestic enquiry are biased and invalid. Thereafter, the petitioner Management adduced evidences and the respondent also adduced evidence on his side. Thereafter, the Labour Court passed a Final award by

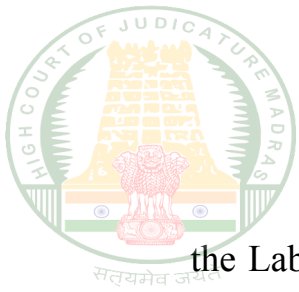


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allowing the industrial dispute and set aside the order dated 08.05.2018 imposing punishment of termination from service passed by the Management through an order dated 14.06.2022 and also held that the respondent is entitled for reinstatement of service along with continuity of service with full backwages and other attendant benefits. The Management has challenged the said award through this Writ petition.

3. The learned counsel appearing for the petitioner Management would submit that the Management framed charges against the respondent for his misconduct and thereafter, a disciplinary enquiry was conducted and awarded punishment of termination from service after following the due procedures in accordance with law and the same was challenged by the respondent through an industrial dispute in I.D. No.51 of 2019 before the Additional Labour Court, Coimbatore. The Labour Court passed a Preliminary Award by holding that the Enquiry Officer has not conducted the enquiry fairly. Thereafter, on the side of the Management, 3 witnesses were examined and on the side of the respondent, he was examined WW1. Even after the witnesses examined on the side of the Management, the Labour Court in its order held that the *punishment of termination imposed against the petitioner based on domestic enquiry is liable to be set aside*. Already in the Preliminary Award,



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the Labour Court rendered findings that the enquiry was not conducted fairly and remanded the case for fresh consideration. On the side of Management, 3 witnesses were examined and one document was marked. On the side of the respondent, one witness was examined and one document was marked. Without considering the evidences adduced on the side of Management, the Labour Court erroneously set aside the punishment awarded by the Disciplinary Authority. Therefore, prayed to remand back the case to the Labour Court for a fresh consideration and to look into the evidences adduced on the side of Management.

3. The learned Senior counsel appearing for the respondent would submit that the Labour Court, after passing a Preliminary Award, in the impugned Final Award discussed about the examination of witnesses. In the final Award passed in pursuance of the proceedings based upon the preliminary Award passed earlier, the Labour Court, in last para, stated that the punishment of termination imposed against the petitioner based on domestic enquiry is liable to be set aside. Since the Labour Court discussed about the evidences adduced in the Industrial Dispute, there is no ground to remand back the case to the Labour Court. Therefore, strongly opposed to remand back the case to the Labour Court.



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

5. On a perused of the records, it is observed that the petitioner Management terminated the respondent from service after conducting a Disciplinary Enquiry and the same was challenged by the respondent Workman before the Labour Court. The Labour Court, in its Preliminary Award dated 23.09.2021, rendered findings that the Enquiry Officer has not conducted the enquiry fairly and thereafter, the petitioner Management adduced evidences by examining witnesses in respect of the charges, but the Labour Court failed to consider the evidences adduced by the petitioner Management. In the Final Award passed by the Labour Court dated 14.06.2022, in Para 7 and 9, it was held as follows:-

"7.Accordingly, the Court holds that the vitiation of the domestic enquiry was held to be confirmed by setting aside the findings of the Enquiry Officer. Consequently, the order of termination dated 08.05.2018 passed by the respondent Management is also liable to be set aside in the interest of justice.

9. The fairness of the domestic inquiry was put to a litmus test right from the beginning since the Enquiry Officer himself was picked from the legal department of the management estate. The domestic enquiry got finally vitiated and the findings of the Enquiry Officer was set aside in the preliminary award. Upon reconsidering the entire records and evidence adduced by the parties concerned, the Court is of the considered view that the punishment of termination imposed



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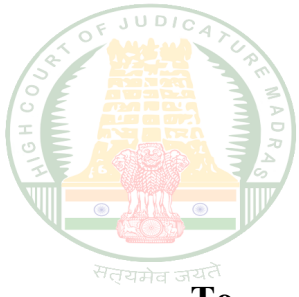
against the petitioner based on domestic enquiry is liable to be set aside. Considering the entire facts and circumstances of the case, the petitioner is entitled to reinstatement of service with continuity of service along with full backwages and other attendant benefits as prayed for along with costs of the proceedings".

On perusal of the above findings, it is seen that the Labour Court failed to consider the evidences adduced on the side of the petitioner Management in the main petition. Therefore, in order to give an opportunity to the petitioner Management, it is appropriate to remand back the case to the Labour Court by setting aside the order passed by the Labour Court.

6. Accordingly, this Writ petition is allowed and the order passed by the Labour Court in I.D. No.51 of 2019 dated 14.06.2022 is set aside and the matter is remanded back to the Labour Court to consider the evidences adduced on both sides and to pass appropriate order on merits in accordance with law. The Labour Court is directed to dispose the case within **three (3) months from the date of receipt of a copy of this order**. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

27.06.2025

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



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To
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1. The Presiding Officer,
The Additional Labour Court,
Coimbatore.

P. DHANABAL, J.,

mjs

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