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W.P.No.35262 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2025

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.35262 of 2022
and
W.M.P.No.34711 of 2022

S.Banumathy
W/o.Sudhakar

... Petitioner

vs.

The Management of Murari Hospital
No.115, Red Hills Road,
Kattabomman Thottam
Madhavaram, Chennai-600 060.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records pertaining to the order dated 12.07.2022 in I.A.No.1 of 2020 in I.D.No.186 of 2009 on the file of the III Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.M.Praveen Kumar
For Respondent : Mr.K.R.Arun Shabari

ORDER

The challenge in the captioned writ petition is to the order dated 12.07.2022 passed by the III Additional Labour Court, Chennai, in I.A.No.1



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of 2020 in I.D.No.186 of 2009. By the said order, the Labour Court rejected the application filed by the petitioner–workman seeking recall of the endorsement dated 13.03.2019, by which she is alleged to have admitted that the domestic enquiry conducted by the Management was fair and proper.

2. Facts of the Case:

2.1. The petitioner–workman raised an industrial dispute under Section 2A of the Industrial Disputes Act, 1947 (hereinafter “Act, 1947”), challenging the order removing her from service . In the said proceedings, an endorsement dated 13.03.2019 had been that the petitioner had accepted that the domestic enquiry conducted was fair and proper .

2.2. The respondent–Management filed a memo seeking to have the matter posted for hearing only on the question of proportionality of punishment. The petitioner–workman objected, contending that the Labour Court could re-appreciate the evidence in the domestic enquiry. The Management filed a rejoinder asserting that the Labour Court could not do so since the petitioner had accepted the domestic enquiry as fair and proper.

2.3. By order dated 05.02.2020, the Labour Court accepted the Management’s memo on the ground that the petitioner had admitted the fairness of the domestic enquiry, and accordingly proceeded to hear the matter only on the question of proportionality. At that stage, the petitioner



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claims that she became aware of the said endorsement only when her new counsel filed a change of vakalatnama. She thereafter filed an application seeking recall of the endorsement dated 13.03.2019. The Labour Court, after hearing both sides, dismissed the application, giving rise to the present writ petition.

3. Learned counsel for the petitioner, Mr. M. Praveen Kumar, submitted that the endorsement dated 13.03.2019 was made by the then counsel without the petitioner's authority or knowledge. He argued that even assuming the domestic enquiry was fair and proper, the Labour Court retains the power to examine whether the charges are proved. He further contended that the application to recall the endorsement was maintainable, particularly where procedural irregularity vitiates the proceeding.

4. Reliance was placed on the following decisions:

(i) *Mavji C. Lakum v. Central Bank of India, [2008] 5 SCR 1001;*

(ii) *Jamilabai Abdul Kadar v. Shankarlal Gulabchand, (1975) 2 SCC 609;*

(iii) *Himalayan Coop. Group Housing Society v. Balwan Singh, (2015) 7 SCC 373.*

5. It was further submitted that an endorsement made without instructions cannot bind the petitioner, and the Labour Court ought to have allowed the application on that ground alone.



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6. Learned counsel for the respondent–Management, Mr. K. R. Arun Shabari, contended that the endorsement made by counsel is binding on the petitioner as she was present during the proceedings. He further argued that the recall application was not maintainable since the Labour Court has no power to recall or review its own orders. He also submitted that once the fairness of the domestic enquiry is accepted, the Labour Court cannot re-appreciate the evidence and must confine itself to proportionality.

7. In support of his submissions, reliance was placed on ***M. L. Singla v. Punjab National Bank, (2018) 18 SCC 21.***

8. The arguments of both sides and the materials available on record have been duly considered.

9. The endorsement dated 13.03.2019 admitting the domestic enquiry to be fair and proper was made by counsel and was not countersigned by the petitioner. The Labour Court summoned the erstwhile counsel Mr. B. Srinivasan and Ms. T. R. Thara to ascertain who authored the endorsement. Mr. Srinivasan filed an affidavit stating that he was not representing the petitioner on the date of endorsement. In a later affidavit, he stated that he was unable to appear during 2016, which led to dismissal of the case for default. Neither counsel accepted responsibility. The petitioner alleges that the endorsement was made by the junior counsel, Ms. T. R. Thara.



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10. The core issue, therefore, is whether the endorsement was made with the petitioner's consent. In the absence of any material substantiating such consent, the benefit must necessarily go to the petitioner.

11. In **Jamilabai** (supra), the Supreme Court held that counsel, as a matter of propriety, must obtain specific instructions before taking any step that may prejudice the client. The implied authority of counsel does not extend to matters that substantially affect substantive rights.

12. In **Himalayan Coop** (supra), the Supreme Court reiterated that although lawyers may act on behalf of clients in procedural matters, they must obtain explicit instructions before making concessions or admissions affecting substantive rights, since the lawyer–client relationship is fiduciary in nature.

13. In the present case, the endorsement directly affects the petitioner's substantive right to contest the fairness of the domestic enquiry. Having regard to the statutory scheme under the Act, 1947, and the admitted absence of consent, the Labour Court ought to have allowed the recall application. In view of this finding, it is unnecessary to examine the larger issue of the Labour Court's power to re-appreciate evidence after deciding the preliminary issue on fairness.



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14. In *Haryana Suraj Malting Limited v. Phool Chand*, (2018) 16 SCC 567, the Hon'ble Supreme Court emphasized that the Industrial Disputes Act, 1947 is a welfare legislation enacted to secure industrial harmony and protect the rights of workmen. The Court held that, in order to achieve the objectives of the statute, certain ancillary, incidental, and inherent powers must necessarily be read into the jurisdiction of Labour Courts and Industrial Tribunals, even if such powers are not expressly enumerated in the Act.

15. The Supreme Court further held that an award passed without giving an adequate opportunity of hearing to a party when that party is able to demonstrate “sufficient cause” within a reasonable time would amount to a violation of the principles of natural justice. Such an award becomes vulnerable to challenge on the ground that it is a nullity in the eyes of law. However, the exercise of this ancillary or inherent power to recall or set aside an *ex parte* award must be invoked within 30 days from the date of the award and before its publication under Section 17 of the Act.



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16. Applying the above principles to the present case, the endorsement made by the Labour Court was admittedly without the consent of the petitioner. When an order or endorsement affecting the rights of a party is made without notice or without obtaining that party's consent, it directly infringes natural justice. In such circumstances, and particularly in view of the beneficial nature of the Act, the Labour Court is empowered to exercise its ancillary and incidental powers to recall, correct, or rectify its earlier endorsement in order to ensure substantial justice between the parties. 17. The industrial dispute pertains to the year 2009 and the proceedings have remained in abeyance since 13.03.2019 solely on account of the disputed endorsement. Ordinarily, in the event the petitioner ultimately succeeds before the Labour Court, the Management would be liable to extend back-wages and all consequential benefits, including continuity of service, for the intervening period. However, having regard to the protracted nature of the proceedings, the fact that the delay is not entirely attributable to the Management, and in order to balance the equities between the parties, this Court is of the considered view that it would not be appropriate to saddle the Management with financial or service-related consequences for the intervening period.



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18. Accordingly, it is clarified that, in the event the petitioner is reinstated pursuant to the final adjudication by the Labour Court, she shall not be entitled to claim any monetary or service benefits for the period from 13.03.2019 to 14.11.2025.

19. In light of the above, the following order is passed:

(a) The order dated 12.07.2022 in I.A.No.1 of 2020 in I.D.No.186 of 2009 is set aside;

(b) The endorsement dated 13.03.2019 is recalled;

(c) The Labour Court shall frame and decide the preliminary issue regarding fairness and propriety of the domestic enquiry and consider it on its own merits and in accordance with law;

(d) All contentions of both parties are left open;

(e) It is clarified that this Court has not expressed any view on the fairness of the domestic enquiry or the charges i.e., whether they are serious or trivial.

20. The issue of whether the petitioner can lead evidence to establish that the charges are not proved, in the event the domestic enquiry is held to be fair and proper, can be considered at the appropriate stage. On this issue also, this Court has not expressed any opinion.



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21. The Writ Petition is allowed. Consequently, the connected miscellaneous petition is closed. No order as to costs.

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Neutral Citation : Yes / No

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HEMANT CHANDANGOUDAR, J.,

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