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W.A.Nos.2960 & 2962 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	30.09.2024
<i>Pronounced on</i>	22.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.Nos.2960 & 2962 of 2021

S.Harikumar ...Appellant in W.A.No.2960/2021

B.Bharathi ...Appellant in W.A.No.2962/2021

Vs.

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The Management of Greaves Cotton Limited,
Light Engine Unit II,
Plot No.72, SIPCOT, Ranipet. ... Respondents in both Was

Common Prayer: Writ Appeals filed under Clause 15 of the Letters

Patent, to set aside the orders passed by the learned Judge in W.P.No.8901

of 2013 dated 31.10.2019 and W.P.No.8900 of 2013, dated 31.10.2019.

(in both WAs)

For Appellants : Mr.V.Prakash, Sr. Counsel



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for Mr.K.Sudalai Kannu

For R1 : Court

For R2 : Mr.P.Raghunathan
for M/s.T.S.Gopalan

COMMON JUDGMENT

M.S.RAMESH, J.

Since the issue involved in both these Writ Appeals are inter-connected, they are heard together and disposed of through this common judgment.

2.1. Both the appellants herein are workmen under the second respondent-Management, who were assigned duties in the Engine Testing Section and Engine Assembly Section, respectively. Through separate show cause notices, both the appellants were alleged to have committed sabotage and were placed under suspension.

2.2. According to the Management, while the appellant in W.A.No.2960 of 2021 is alleged to have wantonly dropped a B8 spring washer in an engine, resulting in their customer returning the engine back to the factory, the appellant in W.A.No.2962 of 2021 is alleged to have wantonly dropped a B6 spring washer between the cylinder heads and



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piston of an engine, which was deducted at the testing stage.

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2.3. Not being satisfied with the explanations rendered by both the appellants, they were subjected to departmental inquiry for the misconducts under Clauses 16(4) and 16(15) of the Standing Orders Rules applicable to the Company. The Inquiry Officer, after extending opportunity to the appellants, had held the charges against them as proved. To the second show cause notice calling for explanations on the findings in the inquiry, both the appellants had given their replies. Their explanations came to be rejected and both of them were imposed with a punishment of removal from service on 05.10.2009.

2.4. The orders of punishment came to be challenged by the appellants before the Labour Court, Vellore, in I.D.No.2 of 2011 and I.D.No.1 of 2011. On 11.04.2012, the Labour Court had passed a preliminary order, holding that the domestic inquiry was held in a fair and proper manner. Thereafter, based on the evidences let in the inquiry proceedings, as well as the evidences before it, separate final awards came to be passed on 07.08.2012 respectively, rejecting the claim petition filed by each of these appellants.

2.5. The further challenge to these awards of rejection before a learned single Judge of this Court in W.P.Nos.8901 and 8900 of 2013



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came to be dismissed on 31.10.2019, respectively. The orders of the learned single Judge are assailed in the present Intra-Court Appeals.

3. The learned senior counsel appearing for the appellants placed substantial reliance on the ground that the order of the Inquiry Officer leading to imposition of the punishment, suffers from perversity, which aspect was not considered by both the Labour Court, as well as the learned single Judge. He elaborately took us through several portions of the inquiry proceedings and submitted that most of the findings therein were based on no evidence and the Inquiry Officer had rendered his final opinion, based on surmises.

4. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Management would submit that then inquiry was conducted in a fair and proper manner, as appreciated by the Labour Court in its preliminary order. The learned counsel also drew attention to the inquiry findings and demonstrated that the decision taken therein was only on the basis of statements made on behalf of the appellants. Likewise, the learned single Judge had also appreciated the findings of the Labour Court, which were rendered on the basis of the evidences before it and



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therefore submitted that there was no perversity in both the awards of the Labour Court, as well as the orders of the learned single Judge.

5. We have given our anxious consideration to the submissions made by the respective counsels.

6. Before we deal with the submissions made on either side, we intend to remark on certain settled legal proposition, insofar as it relates to the appreciation of evidences in a departmental inquiry.

7. The Hon'ble Supreme Court has, in a catena of decisions, settled the legal proposition relating to appreciation of evidences in a disciplinary proceedings. One such decision is in the case of ***G.M.Tank vs. State of Gujarat and Others*** reported in ***(2006) 5 SCC 446***, wherein it was held that in criminal law, the burden of proving is on the prosecution and unless the prosecution is able to prove the guilt of the accused “beyond reasonable doubt”, he cannot be convicted by a Court of law. On the other hand, penalty can be imposed on the delinquent, on a finding recorded on the basis of “preponderance of probability”. This proposition has been reiterated in several subsequent decisions and the law on such



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appreciation of evidences in a domestic inquiry, stands well settled.

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8. The learned senior counsel for the appellants drew our attention to several passages in the Inquiry Officer's report and submitted that the findings therein were not based on any evidence at all, but rather the decision has been arrived at on presumptions and surmises. In order to appreciate such a statement, we have perused the entire reports of the Inquiry Officer dated 02.02.2009 and 20.04.2009 respectively.

9. The appellant in W.A.No.2960 of 2021, who was levelled with a charge that he had dropped a B8 spring washer in an engine supplied to the customer and thereby created sabotage, had admitted that he alone was engaged for 40 minutes in the testing division of the particular engine and that when the engine is in TDC position, the B8 spring washer in the cavity will not come out.

10. Likewise, the appellant in W.A.No.2962 of 2021, who was levelled with a charge that he had dropped a B6 spring washer between the cylinder heads and a piston in an engine, had admitted that he was assigned duties of installing cylinder heads at the 7th stage of the second

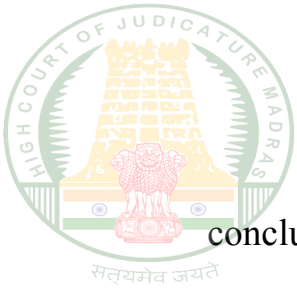


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conveyor, during his second shift on 04.11.2018. He had further admitted that if a washer has been put inside the inlet exhaust and when the fly wheel is turned at the next stage gap setting, there is a possibility of the engine getting jammed. Placing reliance on the aforesaid testimonies during the course of inquiry, amongst others, the Inquiry Officer had come to the conclusion that the charges levelled against the appellants stand proved. Thus, it cannot be said that such a decision was not based on any evidence at all.

11. The learned senior counsel had pointed out a stray observation in the inquiry proceedings that the Inquiry Officer had 'presumed' the damage to the piston in the engine. We do not endorse the said statement. On the other hand, on a perusal of the statements made in the cross examination, it has been established that there was a possibility of the involvement of these appellants to have committed the act of dropping a spring washer in the engine.

12. The learned single Judge extensively dealt with the findings in the inquiry and after analysing the entire evidence, had come to the



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conclusion that the spring washer could not have been put in the engine by anybody else, other than the appellants herein. We do not find any illegality or any other infirmity in the findings.

13. Thus, we do not find any grounds or other reasons to interfere with the well considered orders of the learned single Judge and accordingly, both these Writ Appeals stand dismissed. No costs.

[M.S.R., J] [C.K., J]
22.10.2024

Index: Yes
Neutral Citation: Yes
Speaking order
hvk



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WEB COPY **To**

The Presiding Officer,
Principal Labour Court,
Vellore.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

hvk

Pre-delivery judgment made in
W.A.Nos.2960 & 2962 of 2021

22.10.2024