
(1998) 07 MAD CK 0040

In the Madras High Court

Case No : W.A. No. 419 of 1998 and C.M.P. No. 4600 of 1998

Chief Engineer, T.N. Electricity Board and Others

APPELLANT

Vs

Govindaraj M.

RESPONDENT

Date of Decision : 13-07-1998

Acts Referred:

Citation : (1999) 2 LLJ 1435

Hon'ble Judges : M.S. Liberhan, C.J;E. Padmanabhan, J

Bench : Division Bench

Advocate : A.N. Sivaprakasam, for the Appellant; D. Govinda Reddy, for the Respondent

Judgement

M.S. Liberhan, C.J.—By consent, the main appeal itself is taken-up for final hearing.

2. The enquiry report was read in Court and the learned counsel for the parties accepted it to be correct. It is not disputed that there is no specific

finding by the Enquiry Officer with respect to the charge of theft against the respondent-workman on the basis of any evidence on record. He was

acquitted by the Criminal Court from the charge of theft. The only finding returned by the Enquiry Officer with respect to the charge of theft was an

inference drawn by him from the fact that the respondent-workman was arrested and an F.I.R. was registered against him. It cannot be disputed

that there arrest or launching of an F.I.R. by itself cannot either constitute an evidence or proof or a circumstance, based on which a person can be

found to be guilty of the charge. It was accepted at the Bar that the finding returned by the Enquiry Officer on the charge of theft attributed to the

delinquent workman cannot be sustained in any circumstance or on facts on record, much less by a quasi-judicial authority even administratively.

3. The other charge against the respondent-workman is that he was absent from duty unauthorisedly for about ten days. It is admitted at the Bar,

during the course of arguments, that the respondent-workman did apply for leave on the next day. The respondent-workman served the Board,

with unblemished record of service, for almost 19 years, with no prior misconduct attributed to him.

4. In our considered view, as observed by the Hon"ble single Judge and as observed by us in the earlier part of the judgment, in the totality of the

facts and circumstances, the punishment of dismissal from service for a misconduct of an industrial worker, who is nothing but a Helper, cannot be

raised to the pedestal of such nature, which calls for the punishment of dismissal from service and deprive him of his service benefits, after serving

the Board for 19 long years of life. There is no gainsaying that the punishment of dismissal from service awarded is not only disproportionate to the

charge attributed or proved on the basis of the enquiry report but is unconscionable. It is stated at the Bar that the respondent-workman had

superannuated in the meanwhile. Learned counsel for the respondent-workman very fairly accepted 75% of the back wages with an order of

reinstatement and all other retirement benefits.

5. In view of the observations made above and the fair stand taken by the learned counsel for the parties, the order of the Hon"ble single Judge is

modified to the extent that the respondent-workman is reinstated with 75% of the back wages and with all other retirement benefits. The amount

shall be paid to the respondent-workman within eight weeks from today. If the amount is not paid within the stipulated period, the respondent-

workman would be entitled to interest, at the rate of 12% per annum, from the date the amount is due and payable till the date of payment.

6. With the above terms and modification, the order of the Hon"ble single Judge is affirmed and the writ appeal is disposed of accordingly.

Connected C.M.P. No. 4600 of 1998 is dismissed.