

(1997) 07 MAD CK 0081

In the Madras High Court

Case No : W.A. No. 291 of 1996 and C.M.P. No. 4174 of 1996

Lakshmi Machine Works Ltd.

APPELLANT

Vs

The Presiding Officer, Labour Court and Another

RESPONDENT

Date of Decision : 16-07-1997

Acts Referred:

Industrial Disputes Act, 1947 — Section 11

Citation : (1997) 2 LLJ 1012

Hon'ble Judges : S.M. Sidickk, J;A.R. Lakshmanan, J

Bench : Division Bench

Advocate : P. Ibrahim Kalifullah, for the Appellant; K.M. Ramesh, for the Respondent

Judgement

A.R. Lakshmanan, J.—The above Writ Appeal is directed against the order of Y. Venkatachalam, J., dated December 4, 1995 in W. P. No. 10503 of 1985, reversing the order passed by the Ist respondent/Presiding Officer, Labour Court, Coimbatore, in I.D. No. 62 of 1983 awarding Rs. 3,000/- by way of compensation in lieu of dismissal from service. The management is the appellant.

2. The appellant was engaged in the production of textile spinning machinery. It employs about 3,000 workmen. The workmen have to work in two shifts. The various machines are operated at a very high speed and if they remain unattended, it may pose a very risk to the persons nearby as well as the machines. Having regard to the nature of machine operations and the risk factor involved, the workmen are required to maintain a constant vigil and also remain near their work place during the shift hours. Any workman who is found sleeping while on duty and who is away from his working place is invariably awarded the punishment of dismissal.

3. The 2nd Respondent was offered employment as an Apprentice on January 14, 1970. Sub clause 7 of Clause 24 of the Standing Order of the company provides that in awarding the punishment, the employer shall take into account the gravity of misconduct, the previous record of the workman and any other

extenuating and aggravating circumstances that may exist. On September 8, 1981, the 2nd Respondent was in the second shift. At about 10-30 p.m., while the shift in charge along with the Supervisor were going on rounds through the FRS Department, they found the 2nd Respondent sleeping, lying behind the EMA High Frequency Hardening Machine Control Panel on a cardboard sheet spread on the floor. The Supervisor Trainee was called to wake up the 2nd Respondent. When the 2nd Respondent woke up, he felt sorry for having slept during duty hours and to give his statement, he and when he was asked refused to own his mistake. On September 9, 1981, a show cause notice was issued to the 2nd Respondent referring to his sleeping while on duty on September 8, 1981 and calling upon him to show cause why disciplinary action should not be taken against him. The 2nd Respondent did not give any explanation. He was asked to appear for an enquiry on September 21, 1981. On September 18, 1981 he submitted an explanation in which he denied the charges. The enquiry was held on January 8, 1982, January 12, 1982 and January 13, 1982. In the enquiry, three witnesses by name Krishnamani, Kuthbudheen and Muralidharan were examined in support of the charges. The 2nd Respondent examined two witnesses viz., Raiendran and Girinathan.

4. The Enquiry Officer gave his report on January 27, 1982 holding that the charges levelled against the 2nd Respondent were proved. It is also relevant to mention that even prior to the present misconduct on September 8, 1981, on several occasions the 2nd Respondent was subjected to disciplinary action and in one instance, it resulted in his dismissal from service in during July, 1976. Later, at the instance and intervention of some higher ups, the 2nd Respondent and some other dismissed workmen were taken back. On a consideration of the finding of the Enquiry Officer and the past record of service of the 2nd Respondent, the Executive Director took a decision to dismiss the 2nd Respondent from service and the same was conveyed to the Personnel Manager, who issued a communication dated February 12, 1982 to that effect to the 2nd Respondent.

5. The 2nd Respondent raised an Industrial Dispute challenging his dismissal. By order dated March 22, 1983 in G.O.Ms. No. 763, Labour and Employment Department, the dispute was referred to the Labour Court, Colmbatore, for adjudication. Before the Labour Court, neither party let in any oral evidence. The 2nd Respondent has marked Exs. W-1 to W-7 and the appellant marked Exs. M-1 to M-35 on their side. Before the Labour Court, the question whether the domestic enquiry was fair and proper, was taken up for consideration in the first instance. The Labour Court has held that due opportunity was given to the 2nd Respondent to vindicate his stand in the enquiry and that the enquiry was fair and proper.

6. In dealing with the question of justification of the findings and the propriety of punishment, the Labour Court considered the evidence let in the enquiry and agreed with the finding of the Enquiry Officer that the 2nd Respondent slept while on duty. Thereafter, the 30 Labour Court has proceeded to consider

whether the misconduct proved against the 2nd Respondent warranted the punishment of dismissal. The Labour Court has given elaborate reasons as to how the punishment of dismissal was justified and the same cannot be said to be disproportionate to the charges proved against the 2nd Respondent. However, the Labour Court awarded a lump sum grant of Rs. 3,000/- to the 2nd Respondent as compensation for the loss of his job. Against the award of the Labour Court, the workman/2nd Respondent has preferred W. P. No. 10503 of 1985.

7. Before the learned single Judge it was is contended on behalf of the workman/2nd Respondent, that the Labour Court has not exercised its power properly. The domestic enquiry conducted, according to the 2nd Respondent, was also not proper and the conclusions of the Labour Court are not supported by cogent reasons. Therefore, the 2nd Respondent requested this Court to interfere with those findings in exercise of its jurisdiction under Article 226 of the Constitution of India. It was also urged that the Labour Court has upheld the punishment of dismissal from service without any proper appreciation of the evidence and hence the Labour Court has erred in law in passing the award. In any event, it was contended that the Labour Court should have interfered with die punishment of dismissal in exercise of its power u/s 11-A of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act).

8. The claim of the 2nd Respondent was opposed by the appellant/management. On behalf of the management it was contended that the Labour Court has given elaborate reasons as to how the punishment of dismissal was justified and the same cannot be said to be disproportionate to the charges proved against him. In any event, it is contended that the findings of the Labour Court are findings of fact based on evidence held in the domestic enquiry and further, the Labour Court has given its own-reasons as to why the punishment cannot be stated to be harsh and excessive. As the conclusion of the Labour Court is supported by valid and cogent reasons, it was submitted before the learned single Judge that this Court should not interfere with the said finding in exercise of its jurisdiction under Article 229 of the Constitution of India.

9. By order dated December 4, 1995 Y.Venkatachalam, J., considered that the punishment was disproportionate to the charges proved against the 2nd Respondent. The learned Judge has not directed the reinstatement of the 2nd Respondent nor has the learned Judge set aside the order of termination. The learned Judge has also not indicated or substituted the punishment imposed on the 2nd Respondent by the Labour Court. The learned Judge has merely set aside the award of the Labour Court. In paragraph 7 of the order the learned Judge has though observed that it is an admitted fact that the 2nd Respondent is involved in proved misconduct sleeping while he was on duty, however, held that on account of the 2nd Respondent having slept during the course of his work, no injury or damage has been caused to so the management. The learned Judge was of the view that the award of Rs. 3,000/- by way of compensation in lieu of

dismissal from service, as ordered by the Labour Court, is disproportionate to the proved charges. Holding so, the learned Judge has set aside the award of the Labour Court. Aggrieved by the said order, the management has preferred the above Writ Appeal under Clause 15 of the Letters Patent.

10. We have heard Mr. P. Ibrahim Kalifullah for the appellant management and Mr. K. M. Ramesh on behalf of Yakalath from M/s. Aiyar & Dolia, on behalf of the 2nd Respondent/management.

11. Mr. P. Ibrahim Kalifullah contended as follows :

a) The Labour Court has gone into the question of propriety of the punishment and has given a finding that the punishment was not disproportionate to the charges proved against the 2nd Respondent/workman. The exercise of the said power u/s 11-A of the Act is not subject to review under Article 226 of the Constitution.

b) The learned Judge has failed to advert to the elaborate reasons given by the Labour Court in coming to the conclusion that the misconduct proved against the 2nd Respondent called for the, punishment of dismissal from service.

c) The learned Judge has erred in holding that the punishment of dismissal can be awarded only in case of misappropriation or for an offence under the Indian Penal Code.

d) According to the learned counsel for the appellant, by reason of the 2nd Respondent sleeping while on duty, there was a grave risk to the working machine and that the fact that there was no untoward incident during the period he was sleeping on duty, would not in any manner mitigate the gravity of the situation.

e) By setting aside the award of the Labour Court, the learned Judge should have either given his finding as to what would be the appropriate punishment or remanded the matter to the Labour Court.

f) The order of the learned Judge in merely setting aside the award of the Labour Court without the consequential finding or directions is erroneous, in that, the learned Judge has not indicated as to what would be the punishment that can be awarded to the 2nd Respondent in lieu of dismissal.

g) The learned Judge has also failed to notice that the materials placed before him would show that the 2nd Respondent was not only gainfully employed but was well placed than what he was when he was in the employment of the appellant.

In support of his above contentions, the learned counsel for the appellant/management cited the following decisions reported in *Royal Printing Works Vs. Industrial Tribunal and Another*, ; *State of Haryana and Another Vs. Rattan Singh*, ; *The Management of Tafe Vs. Venkataraman and Others*, ; *Kerala Solvent Extractions Ltd. Vs. A. Unnikrishnan and Another*, ; and *Dhamapuri District Co-*

op. Sugar Mills v. Labour Court, Vellore 1997 (1) LLJ 391 .

12. Arguing contra, Mr. K. M. Ramesh contended that on the evidence available on record, the charges have not been made out on the 2nd Respondent/workman. He further contended that the findings of the Enquiry Officer and of the Labour Court are perverse and that gainful employment cannot be put against for awarding compensation. In support of his contention, he cited the decisions reported in line The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others, ; B.C. Chaturvedi Vs. Union of India and others, ; Om Prakash Goel v. Himachal Pradesh Tourism Development Corporation Ltd. 1992 1 LLJ 469 (SC); A.V. Krishnamurthy Vs. Govt. of Tamilnadu and Others, ; Rajinder Kumar Kindra Vs. Delhi Administration through Secretary (Labour) and Others, ; and Air Lanka Ltd. Vs. John William Nathan and another, . Mr. K. M. Ramesh has also drawn our attention to the proceedings of the Enquiry Officer and of the Labour Court and pointed out certain portions here and there in order to substantiate his contention.

13. Mr. K. M. Ramesh contended that because of the sleeping of the workman and the carelessness in relation to his work would not justify serious punishment. The learned Judge has also accepted the said view. Under such circumstances, Mr. K. M. Ramesh contends that this Court cannot interfere with the said finding or impose serious punishment. With this view of the learned Single Judge, we definitely disagree. In this context, it is pertinent to notice the observations of Royal Printing Works Vs. Industrial Tribunal and Another, . This is what the learned Judge said at p. 622:

"Carelessness can often be productive of more harm than deliberate wickedness or malevolence. I shall not refer to the classic example of the sentry who sleeps at his post and allows the enemy to slip through. There are other more familiar instances. A compositor who carelessly places a plus sign instead of a minus sign in a question paper may cause numerous examinees to fail. A compounder in a hospital or chemist's shop who makes up the mixtures or other medicines carelessly may" cause quite a few deaths. The man at an airport who does not carefully filter the petrol poured into a plane may cause it to crash. The railway employee who does not set the point carefully may cause a head-on collision. Misplaced sympathy can be a great evil. Carelessness and indifference to duty are not the high roads to individual or national prosperity.

14. The decision reported in State of Haryana and Another Vs. Rattan Singh, was rendered by three Hon'ble Judges of the Supreme Court. It has been observed by the Supreme Court as follows at p. 47 :

"It is well settled that in a domestic enquiry, the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in

evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act. For this proposition it is not necessary to cite decisions nor text books, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is basis and if 15 perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic Tribunal, cannot be held good The simple point is, was there some evidence or was there no evidence not in the sense of the technical rules governing regular Court proceedings but in a fair common sense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic Tribunal is beyond scrutiny."

In view of the above judgment of the Supreme Court, we are unable to agree with the contention of the learned counsel for the 2nd Respondent that the sufficiency of the evidence in proof of the finding by a domestic Tribunal is beyond scrutiny by this Court. Therefore, the contention of the learned counsel for the 2nd respondent on this aspect fails.

15. In the decision reported in *The Management of Tafe Vs. Venkataraman and Others, S. Nainar Sundaramal, (aslo he then was), and E. I. Bellie, J.,* while construing the scope of Section 11-A of the Act and the quantum of punishment to be awarded, and the discretion of the Labour Court to interfere with the said punishment, observed as follows at p. 469 :

"Once the Labour Court in exercise of its power u/s 11-A of the Industrial Disputes Act evaluates the gravity of go misconduct for the purpose of punishment to be imposed on a workman and exercises its discretion, High Court exercising jurisdiction under Article 226 of the Constitution of India in the absence of any important legal principle should not undertake to re-examine the question of adequacy or inadequacy of the materials for interference by the Labour Court. After elaborate consideration the Laour Court came to the conclusion that the punishment was disproportionate and ordered reinstatement of the worker and denied him back wages from date of suspension till date of reinstatement. This is within the powers of the Labour Court. When once the discretion is exercised judicially and it is held that the punislunent is disproportionate to the degree of the guilt on the basis of reasons, High Court cannot interfere with the award."

As pointed out by the Division Bench in the above cited case, when once the discretion is exercised judicially, this Court cannot interfere with the award unless it is proved otherwise.

16. We have carefully gone through the award of the Labour Court. The Labour Court has elaborately considered the entire evidence placed before it and arrived at the conclusion. The Labour Court has also considered the punishment to be

awarded and considering the gravity of misconduct and the past record of service, the Labour Court awarded the punishment of dismissal from service. It is seen from the award that the 2nd respondent had been suspended pending enquiry for striking work, inciting others to strike work and having been not found at the work spot on November 9, 1971. He was also warned for having habitually ab-sented for more than seven occasions. He had been suspended for four days for striking work, inciting others also to strike work, riotous and disorderly behaviour and threatening other workmen working at the work spot on October 15, 1973. He was also suspended for a month pending enquiry for not wearing prescribed uniform while on duty. He had further been suspended pending enquiry for having refused to receive the written communication and for riotous and disorderly behaviour and squatting within the factory premises. Ultimately, he was INIR dismissed from service with effect from July 2, 1976 and on account of intervention of some higher ups, he was taken back along with a few others. He had been orally warned for habitual absence on April 24, 1980. We are of the view that under the above circumstances, the management cannot remain a silent spectator and permit the workman to commit misconduct in the industry.

17. The fact of the 2nd respondent sleeping during duty hours might look a minor misconduct, but, if it is viewed in association with series of misconducts committed by him in the past, it deserves serious action. As rightly pointed out by the Labour Court, discipline, orderliness and smooth conduct are as important as production. The management can ill-afford to sacrifice any of them. The appellant/management employs 3,500 workmen and it can ill-afford to allow workmen to sleep during working of hours . The 2nd respondent's act of misconduct committed, coupled with the series of past record of bad service, in our considered opinion, warrant nothing but an order of termination. The Labour Court has also observed that the 2nd respondent has conducted himself in a manner conducive to his convenience and not strictly adhering to the schedule of work enjoined upon him by his superiors, and therefore he had rendered himself undesirable and much more unworthy of the confidence reposed in him in the matter of entrustment of very important work in an industry such as that of the appellant. We are of the view that there is ample evidence in support of the conclusion arrived at by the Enquiry Officer and also by the Labour Court.

18. In the decision reported in Kerala Solvent Extractions Ltd. Vs. A. Unnikrishnan and Another, it has been held by the Supreme Court as follows at p. 890 :

"In recent times, there is an increasing evidence of this, perhaps well meant but wholly unsustainable, tendency towards a denudation of the legitimacy of judicial reasoning and process. The reliefs granted by the Courts must be seen to be logical and tenable within the framework of the law and should so not incur and justify the criticism that the 101 jurisdiction of Courts tends to degenerate into misplaced sympathy, generosity and private benevolence. It is essential to

maintain the integrity of legal reasoning and the legitimacy of the conclusions. They must emanate logically from the legal findings and the judicial results must be seen to be principled and supportable on those findings, Expansive judicial mood of mistaken and misplaced compassion at the expense of the legitimacy of the process will eventually lead to mutually irreconcilable situations and denude the judicial process of its dignity, authority, predictability and respectability."

19. In the decision reported in 1997 (1) L.L.J. 391, a Division Bench of this Court, while construing the powers of the Labour Court u/s 11-A of the Act, has held as follows :

"The Court should not entertain a misplaced sympathy towards a workman and should not prejudice the issue from the angle of rehabilitation. The question of rehabilitation and reformation could arise in a case of minor delinquency or misconduct. Where the charges are grave in nature, can the Labour Court exercising power u/s 11A of the Act impose on a management a workman whose presence is likely to affect the morale and discipline of the entire factory ? Should the management be embarrassed by the reinstatement of such a workman by denying the managerial function to which a management is entitled to, having regard to the facts and circumstances of the case ? The acceptance of such a proposition (sic.) would only lead to interfering with the managerial functions to the extent of destroying the discipline and control in the entire factory. Section 11A of the Act is not intended to embarrass the management to such extent. The Labour Courts and Tribunals cannot mechanically use the words "the punishment being disproportionate to the charges". As observed by the Supreme Court of India unless the Labour Court finds the punishment to be highly disproportionate to the charges, the Labour Court should not interfere. Having found the 2nd Respondent guilty of the charges, while exercising the function of imposing a punishment, the Labour Court is in fact in the position of management and the sentiments expressed by the management, when they terminated the services of the 2nd Respondent have to be kept in mind and different principles will not apply to Labour Court while determining the punishment to be awarded to the guilty worker In this case, the first charge relates to negligence in the performance of duties, causing considerable embarrassment to the management. This charge by itself may amount only to loss of confidence, but the second charge relates to dishonesty and temporary misappropriation. It was sought to be argued that temporary misappropriation cannot be equated to theft. But the intention of the worker and his general attitude are visible from the proof of the said The third charge relates to the demand of bribe of Rs. 100/-. This is a very serious charge and could undermine the very reputation of the management. When the Court is faced with three charges, all of which have been proved by evidence adduced before the Labour Court itself, it would be improper to have an misplaced sympathy in favour of the worker. The question of rehabilitation would only result in the destruction of discipline and morality in the entire factory. Section 11A of the Act was not certainly intended to cause such an embarrassment to the management The award of Labour Court set aside and

non-employment of employee is held to be justified."

20. We shall now consider the authorities cited by the learned counsel for the 2nd Respondent/workman. First he relied on the decision reported in *The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs. The Management and Others*, and he referred to paragraphs 27, 28, 29 and 33 particularly in the said judgment. We have already, held and exhaustively referred to the evidence and the various findings rendered by the Labour Court while adjudicating the dispute relating to dismissal and held that a proper enquiry was held by the employer and the finding of misconduct is a plausible conclusion flowing from the evidence adduced at the said enquiry. In the above judgment, the Supreme Court has laid down the principles broadly emerged in cases like this. The Supreme Court has also observed in the said judgment that the interference with the decision of the employer or the labour Court will be justified only when the finding arrived at, at the enquiry is perverse or the management is guilty of victimisation, unfair labour practice or mala fides. In our opinion, the learned counsel for the 2nd Respondent has not substantiated his contention that the finding arrived at, at the enquiry is perverse or the management is guilty of victimisation. Before imposing the punishment on the 2nd Respondent/workman, the appellant/management has conducted a proper enquiry in accordance with the provisions of the Standing Orders and followed the principles of natural justice. The enquiry was conducted in a proper manner and the Labour Court, on the evidence adduced before it, has decided that the misconduct alleged is proved. In the above cited judgment, the Supreme Court has categorically observed that once the misconduct is proved either by an enquiry or by the evidence placed before a Tribunal, the punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimisation. Therefore, in our opinion, in the instant case, there is no scope for interference with the findings of the Enquiry Officer and of the Labour Court on the ground that it is perverse.

21. Mr. K. M. Ramesh has cited another decision of a Division Bench of this Court rendered by P. R. Gokulakrishnan and S. Nainar Sundaram, JJ (as they then were) in *A.V. Krishnamurthy Vs. Govt. of Tamilnadu and Others*, wherein the Bench held that any conclusion to be reached by Tribunals must be, on the basis of acceptable evidence and such evidence must have some degree of definiteness even though the Tribunals are not governed by the strict and technical rules of evidence. The Bench has also held that if the Tribunal has rendered a finding based on no acceptable evidence, that could be regarded as an error of law to be corrected by a writ of certiorari. There is no quarrel or dispute over the proposition of law laid down by the Division Bench. But, in this case, as already noticed, the Labour Court has reached its conclusion on the basis of the evidence tendered before it and there is no indefiniteness in the evidence adduced. On the other hand, the evidence tendered by the witnesses and the documents marked on both sides are categorical in nature. Therefore, this judgment will have no application to the facts and circumstances of the case on

hand.

22. In support of his contention that the gainful employment of the 2nd Respondent cannot be put against him for compensation, Mr. K. M. Ramesh cited the decision reported in *Rajinder Kumar Kindra Vs. Delhi Administration through Secretary (Labour) and Others*, . That was a case of the employee staying with his father-in-law and helping him in his business for maintaining family during the period of unemployment. The Supreme Court held that it is not a gainful employment and hence full backwages must be granted. The case on hand is not one such. In this case, it has been clearly proved that the 2nd Respondent was having an engineering work-shop under the name and style of Sri Ganapathi Enterprises and engaged in the business of fabrication and manufacture of fancy grills, shutters, steel sets, water tanks and concrete mixer machines. An enlarged copy of same was annexed to the affidavit filed in support of the writ petition, and marked as Annexure "A". It is also further averred that the 2nd Respondent had been supplying wooden packing cases to one of the concerns which is closely associated with the appellant. He is having a lucrative business and the present litigation is being pursued to cause embarrassment to the appellant. Under these circumstances, the award of monetary compensation by the Labour Court cannot be said to be wholly unjustified, in any event, having regard to the fact that the 2nd Respondent is engaged in a lucrative business and as more than 13 years have passed since the order of dismissal, as rightly contended by the learned counsel for the appellant, any relief other than monetary compensation would not be in the interest of both parties. The 2nd Respondent has not filed any reply to the counter affidavit filed by the Assistant Manager, Personnel of the appellant.

23. The decision reported in *Air Lanka Ltd. Vs. John William Nathan and another*, cited by the learned counsel for the 2nd Respondent, deals with the quantum of punishment. That was a case of reinstatement converted into monetary relief. The Court held that monetary relief should be fixed with reference to position of reinstatement and present pay if reinstated.

24. The decision reported in 1992 I LLJ 469 is also a case of reinstatement with backwages. In that case, the order of termination of the employee's services was quashed. Consequently, he was directed to be reinstated in service. The Court held that the employee shall be entitled to the full backwages upto the date of his enrollment as a lawyer and from the date of his enrollment upto the date of reinstatement, he shall be entitled to the backwages at the rate of half of the subsistence allowance per month. The above judgment will have no application to the case on hand. As already stated, the above was a case of reinstatement with backwages. Therefore, the Court ordered that the employee shall be entitled to full wages and other consequential benefits.

25. In the instant case, the Labour Court after holding the 2nd Respondent/workman guilty of all the charges, has, however, considered the payment of some lump sum compensation and fixed Rs. 3,000/- as reasonable compensation. This was challenged by the workman in the Court. The learned

single Judge having held that it is an admitted fact that the workman was involved in a proved misconduct of sleeping while he was on duty, has, however, interfered with the award of the Labour Court and set aside the award of compensation of Rs. 3,000/-. We have already observed that the learned Judge has simply set aside the award but has neither directed reinstatement of the workman nor set aside the order of termination. The learned Judge has also not indicated any substituted punishment. The order of the learned Judge is totally without jurisdiction. It is for this reason, the Writ Appeal preferred by the management against the order of the learned Judge was admitted by this Court.

26. We have absolutely no doubt in our mind that the enquiry conducted by the Domestic Enquiry Officer and the findings rendered by the Labour Court are fully justified on the facts and circumstances of the case. Therefore, we have no hesitation in confirming the finding of the Labour Court ordering dismissal of the 2nd Respondent from service. We are also fully aware that carelessness on the part of any workman would justify a serious punishment. Equally, we are conscious of the fact that once the Labour Court in exercise of its power u/s 11-A of the Act, evaluates the gravity of the misconduct for the purpose of punishment to be imposed on a workman and exercises its discretion, this Court, exercising jurisdiction under Article 226 of the Constitution, in the absence of any important legal principle, should not undertake to re-examine the question of adequacy or inadequacy of the materials for interference by the Labour Court. However, the judicial discretion of this Court in enhancing the monetary Compensation is not taken away and there is no bar for exercising such jurisdiction in the peculiar facts and circumstances of the case. We, therefore, propose to exercise that discretionary power in this case for the reasons to be stated infra.

27. It is not in dispute that the 2nd Respondent/workman was in gainful occupation for the last 13 years. He is running an engineers workshop and was earning income from his lucrative business. He had 13 years of service to go in the year 1985. Under such circumstances, the award of monetary compensation at Rs. 3,000/- by the Labour Court is too low. We are of the view, that a compensation of Rs. 20,000/- is just and proper on the facts and circumstances of the case.

28. For the fore-going reasons, while confirming the order of the Labour Court dismissing the 2nd Respondent/workman from service, we enhance the lump sum compensation to Rs. 20,000/- (Rupees twenty thousand only) to be paid to the 2nd Respondent/workman by the appellant/management within two months from to-day. The Writ Appeal is ordered accordingly. However, there will be no order as to costs. Consequently, C.M.P. No. 4174 of 1996 is dismissed as no longer necessary.