

**(1993) 04 MAD CK 0027**

**In the Madras High Court**

**Case No : Writ Petition No. 8492 of 1985**

N. Mohandoss

APPELLANT

Vs

Southern Industrial Polymers (Pvt.) Ltd. and Others

RESPONDENT

---

**Date of Decision : 16-04-1993**

**Acts Referred:**

Constitution of India, 1950 — Article 226  
Industrial Disputes Act, 1947 — Section 10

**Citation : (1993) 2 LLJ 1002**

**Hon'ble Judges : S. Janarthanam, J**

**Bench : Single Bench**

**Advocate : S. Swaminathan, for the Appellant; D. Meenakshisundaram, for the Respondent**

---

## **Judgement**

S. Janarthanam, J.—Southern Industrial Polymers (Private), Ltd. (For short company) is located at SIPCOT Industrial complex, Ranipet,

North Arcot District. N. Mohandoss (petitioner) had been employed as a laboratory attender in the said company. For certain misconduct on his

part, he was stated to have been placed under suspension and explanation had been called for; that the management of the said company

(respondent 1) was not satisfied with the explanation offered by the petitioner and, therefore, disciplinary inquiry had been instituted, after framing

necessary and requisite charges relatable to the misconduct on his part.

2. The charges are :

(1) He slept during duty hours in the night shift;

(2) He switched off the oven installed in the factory for maintaining a certain temperature to achieve qualify control of the product manufactured;

and

(3) Disobeying the order of superiors.

3. After complying with the requisite formalities associated with the domestic inquiry, inclusive of giving him adequacy of opportunity to meet the

charge leveled against him, the inquiry officer, on the evidence and other materials placed, found him guilty of all the charges and consequently,

respondent 1 - the management of the company - dismissed him from service.

4. An industrial dispute had been raised with regard to his dismissal and Government of Tamil Nadu, under S. 10(1)(c) of the Industrial Disputes

Act, referred the dispute for adjudication in G. O. Ms. No. 110, Department of Labour and Employment, dated January 18, 1982, and the

Presiding Officer, second Additional Labour Court, Madras (respondent 2), took it on his file as Industrial Dispute No. 38 of 1982.

5. Respondent 2 took into consideration the relevant materials on record and unable to find any perversity in the finding recorded during the course

of domestic inquiry, as relatable to the various charges framed against the petitioner, also affixed the seal of approval to all those findings, in the

sense of finding him guilty of all the charge, by his award, dated October 8, 1984. He also took into consideration as to whether the imposition of

penalty of dismissal from service disproportionate to the gravity of charges levelled against him and such an exercise undertaken by him did not at

all yield any dividend, in the sense of petitioner, inasmuch as his past history of service is riddled with gross indiscipline. The aggrieved petitioner

resorted to the present action praying for issue of a writ of mandamus to quash the said order impugned.

6. Learned counsel appearing for the petitioner, little realising that this court sitting under the extraordinary jurisdiction under Art. 226 of the

Constitution cannot sift or scan the materials and evidence available on record, as a Court of Appeal, and go on discussing the evidence available

on record in a threadbare fashion, submitted that finding of respondent 2 (Presiding Officer, Labour Court) confirming the finding of that inquiry

officer in the domestic inquiry are not at all sustainable, to which course, learned counsel appearing for respondent 1 expressed strong disapproval,

by striking discordant note.

7. With regard to the various charges levelled against the delinquent (petitioner), it is not as if either there is no evidence at all or the evidence

available no record cannot at all be construed as an evidence, in the eye of law, so that this Court, exercising power under Art. 226 of the

constitution can interfere. Further even the appreciation of the materials available on record by the authorities below cannot be stated to be

perverse, calling for interference. In such state of affairs there is no other go for this Court, except to affix the seal of approval to the finding

recorded by the authorities below, as respects proof of the charges levelled against the petitioner.

8. Even as respect the penalty, respondent 2 (Presiding Officer Labour Court) devoted his attention, in an admirable way, to find out, by taking

into consideration the history of service of the petitioner, as reflected from the materials available on record, as to whether the punishment inflicted

upon the petitioner is disproportionate to the gravity of the misconduct alleged and proved against him. The discussion relatable to that part of the

exercise, resulting in an ultimate finding that the punishment imposed upon the petitioner is not in any way disproportionate to the gravity of the

misconduct alleged and proved against him is not suffering from any serious infirmity calling for interference.

9. The writ petition, as such, deserves to be dismissed and is accordingly dismissed, rule nisi issued shall stand discharged. There shall, however,

be no order as to costs.