

MANU/KA/3433/2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

Writ Petition No. 25658 of 2014 (L-Res)

Decided On: 24.09.2025

G. Mahesh **Vs.** The Management of Teknic Euchner Electronics Pvt. Ltd.

Hon'ble Judges/Coram:

Anant Ramanath Hegde, J.

Counsels:

For Appellant/Petitioner/Plaintiff: Raghavendra S.H., Advocate

For Respondents/Defendant: Prashanth B.K., Advocate

Case Note:

Industrial Dispute - Dismissal from Service - Justification of - Article 226 of the Constitution of India - Present petition filed challenging the Labour Court's award upholding the dismissal of the petitioner from service following allegations of misconduct - Whether the Labour Court was justified in upholding the dismissal order, and whether the High Court should interfere with the Labour Court's award - Held, the Labour Court's finding regarding disruption of the domestic enquiry was set aside due to lack of a charge memo and proper analysis of evidence - The High Court upheld the Labour Court's finding that the workman filed a false complaint, based on the police 'B' report and the workman's failure to challenge it - While the charge of filing a false complaint was upheld, the High Court, considering the petitioner's disability, lack of prior disciplinary issues, and the management's lack of sensitivity, deemed the dismissal disproportionate - Exercising powers under Article 226, the High Court directed the respondent-Management to pay the petitioner a compensation of Rs. 4,00,000/- - Petition allowed in part.

ORDER

Anant Ramanath Hegde, J.

1. This petition is filed assailing the award dated 11.07.2013 in I.D. No. 112/2009 on the file of II Additional Labour Court, Bangalore.
2. In terms of the said award, the workman's reference is rejected. The petitioner-workman had raised an industrial dispute challenging the penalty of dismissal imposed by respondent - Management.
3. The petitioner was a workman under the respondent - Management. A show cause notice was issued on 19.01.2009 against the petitioner alleging insubordination and falsifying evidence. The workman replied on 23.01.2009 denying the allegations made against the petitioner.
4. In the Show Cause Notice dated 19.01.2009, the respondent-Management apprehended that the complaint may misinterpret the situation by making a false complaint against the Senior Manager accusing the Senior Manager of assaulting the petitioner. In the said Show Cause Notice, the management makes reference to the

earlier notice dated 19.01.2009, where it alleged insubordination by the workman and warned disciplinary action.

5. To the show cause notice dated 19.01.2009, the petitioner-workman responded vide reply dated 23.01.2019 alleging assault on him by the Production Supervisor Mr.Kennedy. The workman denied all the charges.

6. The workman was placed under suspension on 02.02.2009, later charge sheet was issued on 06.02.2009.

7. In the said charge sheet, the respondent - Management has referred to the incident dated 16.01.2009 around 03:30 p.m., where the respondent alleged that the workman in the chamber of Mr.Kennedy, himself inflicted the injury on his head with a paper weight and fell unconscious and later, lodged a complaint (on the same day in the evening after being discharged from the hospital) against Mr.Kennedy, alleging that Mr.Kennedy assaulted him.

8. It is alleged in the charge memo that the false complaint is filed with an intention to malign the officers of the Company.

9. The specific charges in the charge memo are:

- (i) Attempting to malign the Officers of the Company;
- (ii) Disorderly or indecent behavior in the premises of the Company
- (iii) Willful or irresponsible action resulting in damage to the Company's reputation
- (iv) Falsifying evidence
- (v) Act subversive of discipline

10. The aforementioned charges are levelled against the petitioner in the backdrop of alleged false complaint filed against Mr.Kennedy.

11. The workman denied the charges and domestic enquiry was conducted. The petitioner initially participated in the enquiry. The respondent-Management contends that in the midst of enquiry, the petitioner-workman disrupted the proceedings and did not co-operate for smooth enquiry and for this reason enquiry was abandoned, and later the respondent-Management imposed penalty of dismissal holding that all charges are established.

12. The petitioner raised an industrial dispute challenging the penalty of dismissal.

13. Before the Labour Court, no issue is framed relating to fairness of the domestic enquiry. However, the parties have led evidence on the issues framed before the Labour Court. The issues read as under:

- (i) Does II party prove that I party committed misconduct alleged in paragraphs No. 4 and 5 of the counter?
- (ii) Is II party justified in passing dismissal order dated 02.04.2009?

14. Paragraph No. 4 of the counter statement by the respondent-Management is relating

to the alleged injury inflicted by the petitioner himself on his forehead in the chamber of Mr.Kennedy. Paragraph No. 5 is relating to the alleged disruption in the domestic enquiry and threat given to the witnesses proposed to be examined on behalf of the respondent-Management. The respondent-Management has also referred to the 'B' report filed by the Police to the said police complaint filed by the workman.

15. Both parties led evidence on the issues framed. Witnesses on both sides were cross-examined.

16. The Labour Court found that the charge relating to false complaint is established. The Labour Court also held that the petitioner has interfered in the disciplinary proceeding and upheld the penalty of dismissal by rejecting the Claim Petition. Aggrieved by the said award, the petitioner is before this Court.

17. Learned counsel for the petitioner would submit that the alleged assault by the petitioner on himself is not established and in fact it was Mr.Kennedy who assaulted the petitioner. It is alleged that no eye-witness is examined to prove the charge that petitioner assaulted himself on his head with a paper weight. It is urged that it has come in evidence that the alleged eye-witness namely Madhav was not present at the time of the alleged incident in Mr.Kennedy's chamber and two other witnesses who are examined are not eye-witnesses to the alleged incident and their evidence cannot be looked into to hold that alleged charge of assault by the workman on himself is established.

18. It is also his further contention that domestic enquiry was abandoned in the middle and any evidence led in said domestic enquiry cannot be looked into to establish the alleged misconduct. It is urged that the evidence placed before the Labour Court is not sufficient enough to hold that the charges are proved.

19. Learned counsel for the petitioner would also urge that there was no charge relating to disruption of domestic enquiry and no enquiry was held relating to alleged disruption in the domestic enquiry and alleged threat to the witnesses proposed on behalf of the respondent-Management. Thus, it is urged that the disciplinary authority could not have concluded that the petitioner has committed the misconduct of disrupting the domestic enquiry and threatening the witnesses proposed to be examined on behalf of the respondent.

20. Learned counsel for the petitioner also urged that, finding on misconduct by the disciplinary authority recorded in respect of the alleged disruption in the domestic enquiry is without any charge memo and enquiry.

21. Based on the aforementioned contentions it is urged that the Labour Court has upheld the penalty for which there was no charge. It is also urged that the finding on the alleged false complaint is only with reference to the 'B' report submitted by the Police and there is no other evidence to substantiate the charge relating to false complaint. Thus, he would urge that impugned award is to be set-aside.

22. Learned counsel for the respondent - Management would submit that the Show Cause Notice was issued referring to the false complaint levelled against Mr.Kennedy on 16.01.2009. It is further submitted that the Police did not register FIR on the complaint dated 16.01.2009, however, later one more complaint was filed on 02.03.2009 on the same allegation against Mr.Kennedy, based on which there was an FIR and investigation. Later, Police submitted 'B' report holding that Mr. Kennedy has not assaulted the petitioner and petitioner assaulted himself.

23. It is further submitted that 'B' report produced by the Police is not challenged and assuming that domestic enquiry was inconclusive as it was abandoned in the middle, the evidence is led before the Labour Court to show that 'B' report filed by the Police is not challenged and is accepted by the petitioner. The Labour Court has recorded a finding that 'B' report establishes the fact that the petitioner has lodged a false complaint and the finding that the petitioner has filed a false complaint is sufficient enough to impose penalty of dismissal from service is the submission on behalf of the respondent.

24. Learned counsel for the respondent urged that no independent witness is examined on behalf of the petitioner to prove his contention that Mr.Kennedy assaulted the petitioner. It has come in evidence that Mr.Kennedy used to work in a transparent glass chamber where persons working outside the chamber could see the persons inside the chamber and in case Mr.Kennedy had hit the petitioner, then the incident would have been witnessed by co-workers and petitioner has not led any evidence of the co-workers to establish the contention that the Mr.Kennedy has assaulted the petitioner.

25. Considering the fact that Police have filed 'B' report which is not challenged and also considering the fact that no independent witnesses are examined to substantiate the contention that Mr. Kennedy has assaulted the petitioner, the Labour Court is justified in arriving at a conclusion that the complaint lodged by petitioner is a false complaint is the submission on behalf of the respondent.

26. It is urged that evidence is also led to substantiate the contention on account of non co-operation, by the petitioner; the domestic enquiry could not be completed. It is submitted that though there was no charge memo issued relating to disruption of domestic enquiry, the respondent-Management has raised the contention before the Labour Court and the Court has framed issue relating to defense taken in Paragraphs No. 4 and 5 of the counter statement and evidence is led before the Labour Court on the charges relating to false complaint as well as the disruption of domestic enquiry. This being the position, the petitioner cannot raise any grievance and he has been given adequate opportunity to defend and the Labour Court on appreciation of evidence has concluded that charges are proved.

27. It is also submitted on behalf of the respondent that the scope of judicial review under Article 227 of Constitution of India is limited to the decision making process, rather than correctness of the decision, and the learned counsel for the respondent urged that the impugned award is based on evidence and the view taken by the Labour Court is a plausible view which does not call for any interference.

28. Learned counsel for the petitioner by way of reply would submit that the Show Cause Notice dated 19.01.2009 would refer to complaint said to have been lodged by the Management for attempting suicide and said aspect is not established. It is his contention that the Management has lodged a false complaint and not the petitioner.

29. As far as contention that there is no challenge to the 'B' report, it is urged by the learned counsel for the petitioner that the Police have not communicated 'B' report said to have been filed before the jurisdictional Court.

30. Learned counsel for the petitioner would also refer to the judgment of the Division Bench of this Court in Sri. Ramesh Malli V. Deputy Inspector General of Police & Another¹

31. This Court has considered the contentions raised at the bar and perused the records

and also referred to the judgments cited by both sides.

32. The order of dismissal dated 02.04.2009 refers to the five charges found in the charge sheet. The Labour Court holds that both charges are proved. The disciplinary authority has found the petitioner guilty of the following 8 misconducts:

- (i) Attempting to malign the officers of the Company
- (ii) Attempting to malign the image of the Company
- (iii) Creating unpleasant atmosphere outside the gate of the Company
- (iv) Disorderly or indecent behavior in the premises of the Company
- (v) Willful or irresponsible action resulting in damage to the Company's reputation
- (vi) Falsifying evidence
- (vii) Act subversive of discipline.
- (viii) Doing any act prejudicial to the interest of the Company.

33. As can be noticed the charge memo, it contains only five charges and the petitioner is held guilty of three more additional charges. From the discussion in the impugned order of dismissal passed by the Disciplinary Authority, it is evident that the petitioner is dismissed on the premise that the petitioner lodged the false complaint and interfered in the disciplinary proceeding. However charge memo was not issued on the charges of disrupting the disciplinary enquiry and no enquiry was held in this behalf.

34. Before the Labour Court as rightly urged by the learned counsel for the respondent, issue is framed relating to the misconduct referred to in paragraphs No. 4 and 5 of the counter statement. The said issue reads as under:

- "(i) Does II party prove that I party committed misconduct alleged in para 4 and 5 of the counter".

Paragraphs No. 4 and 5 in the counter statement are with reference to the alleged assault by the petitioner on himself and the false complaint against Mr. Kennedy, and relating to the disruption in the domestic enquiry and the threat to the witnesses. Since the petitioner contended that domestic enquiry is not complete, the parties were permitted to lead evidence on all the issues.

35. It is true that there was no charge relating to disruption of domestic enquiry and threat to the witnesses, and order of dismissal is also based on alleged disruption in the domestic enquiry, in view of the law laid down by the Apex Court in The Workmen of Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. Vs The Management and Ors. MANU/SC/0305/1973 : 1973:INSC:39 : AIR 1973 SC 1227 and Workmen of Motipur Sugar Factor (Private) Limited vs Motipur Sugar Factory MANU/SC/0238/1965 : 1965:INSC:86 : AIR 1965 SC 1803, the Labour Court is competent to try the issues based on the pleadings before it. In such an event the parties are entitled to lead evidence on the matters in controversy.

36. This being the position, the lapses or shortcomings in the domestic enquiry are cured in the fresh trial conducted by the Labour Court.

37. Now, the Court has to consider whether the findings on the issues framed by the Labour Court are based on materials available on record.

38. It is relevant to notice that the petitioner had lodged a complaint against Mr. Kennedy, the Production Supervisor alleging that Mr. Kennedy has assaulted the petitioner in his chamber. Fact that the petitioner filed a police complaint is admitted. The Labour Court on appreciation of evidence has concluded that the allegation made by the petitioner that Mr. Kennedy has assaulted the petitioner in his chamber is not established. The Labour Court has assigned the following reasons:

- (a) The Police investigated the complaint filed by petitioner - workman and filed 'B' report and, the petitioner has not challenged the said 'B' report.
- (b) None of the employees of the Company or the Union lodged a complaint against Mr. Kennedy alleging assault on the petitioner by Mr. Kennedy.
- (c) No witness is examined to prove the alleged assault by Mr. Kennedy and the Labour Court has held that Mr. Kennedy's chamber was a glass chamber and the workers outside the chamber can see inside the chamber and if Mr. Kennedy had hit the petitioner - workman, the workers outside the chamber would have witnessed the incident and would have led evidence.
- (d) The persons who is said to be inside Mr. Kennedy's chamber have deposed stating that the petitioner himself hit on his head by taking a paper weight.
- (e) One of the witnesses has stated that the paper weight was found in the hand of the petitioner.

39. In paragraph No. 10 of the award, the Labour Court has held as under:

"10..... It is pertinent to note that neither the first party lodged any report before the office bearers of the union nor any one of the office bearers of the union lodged any report against M.W.1 before the management of the second party when the alleged incident has taken place in the chambers of M.W.1 which is situated within the factory premises. Moreover, if managerial staff is to assault a workman with a paper weight causing bleeding injury, the union office bearers would not have tolerated such a act of the management officials. Further, it is stated that the first party fell unconscious. Considering the gravity of the injury, it is not at all possible and probable for the M.W.1 to drag W.W.1 and then assault him on his head with the paperweight that too in his chambers."

40. This Court is not convinced about the reasoning of the Labour Court in observing that "it is not at all possible and probable for M.W.1 to drag W.W.1 and then assault him on his head with the paperweight that too in his chambers". Said conclusion is not supported by an acceptable reasoning, moreso in a situation where the petitioner is admittedly a differently abled person.

41. In paragraph No. 11, the Labour Court has held that what all happened in the chamber of Mr. Kennedy is visible outside the chamber and if at all the incident as alleged by the petitioner has taken place, the workers outside the chamber would have witnessed the incident. This Court is of the view that it is one of the possibilities. It is quite possible that the workers outside the chamber who are engrossed in the work might not have witnessed the alleged incident.

42. In paragraph No. 17 the Labour Court has observed as under:

"17. Now, the MW.1 is not working with the second party., This shows that the witness has deposed correctly before the Court as there was no obligation for him to depose false fact against the first party when he has left the job with the second party."

43. This Court is also not convinced about the reasoning referred to above. Merely because MW.1 is not working with II party, it does not mean whatever MW.1 has stated against the petitioner is correct. It is relevant to notice that MW.1 whether in employment under II party or not, could not have deposed in favour of WW.1 as the alleged incident is all about the assault on WW.1 by MW.1 or about the alleged self inflicted injury by WW.1.

44. Despite all the above noted factors which according to this Court, are not convincing, the reasons noted in sub paragraphs (a) to (e) of paragraph No. 39 supra appear to be based on evidence.

45. The petitioner had the opportunity to question the 'B' report submitted by the Police. The learned counsel for the petitioner would submit that intimation relating to the report is not communicated to the petitioner. This contention appears to be incorrect. The respondent has produced the copy of the notice issued by the Magistrate Court to the petitioner relating to the 'B' report submitted by the Police. However, the petitioner has not accepted the notice. This being the position, the contention that intimation relating to the 'B' report is not served on the petitioner cannot be accepted.

46. The Labour Court has held that the 'B' report is accepted by the petitioner and he has not chosen to object to the 'B' report. The 'B' report would indicate that what is stated in the complaint filed by the petitioner is incorrect. In addition, the 'B' report also records a finding that the petitioner inflicted injury on himself.

47. From the inaction on the part of the workman, in not taking further steps to challenge 'B' report, one can conclude that the allegation that Mr. Kennedy has hit the petitioner is not established.

48. On going through the 'B' report marked at Ex.P53, it is evident that after the investigation, Police have come to the conclusion that the complaint is false. 'B' report is not questioned in the manner known to law. Thus, the finding of the Labour Court cannot be said to be perverse and it is indeed a plausible view.

49. This Court is of the view that the finding relating to false complaint by the petitioner cannot be said to be erroneous and capable of correction in exercise of jurisdiction under Article 227 of the Constitution of India, though from some perspective the theory of petitioner hitting himself on his forehead appears to be doubtful. One of the witnesses on behalf of the prosecution has gone to the extent of saying that paperweight was found in the petitioner's hand though he has fallen on the ground unconscious. If the petitioner had fallen on the ground unconscious (this fact is not dispute) the statement of the witness that paperweight was still found in hand of the petitioner appears to be doubtful.

50. At the same time the logical inference emanating from acceptance of 'B' report and few other circumstances referred to above also suggest that, view taken by the Labour Court is also a plausible view. In that view of the matter, the impugned award cannot be interfered with in exercise of jurisdiction under Article 227 of the Constitution of

India.

51. The Labour Court has also referred to judgment in Hindusthan General Electrical Corporation Limited vs. H Bishwanath Prasad and Others MANU/SC/0513/1971 : 1971:INSC:202 : AIR 1971 SC 2417 and applied the principles laid down in the said judgment to reject the petitioner's claim. This Court is of the view that the law laid down in the aforementioned judgment is inapplicable to the facts of the present case. However, that cannot be a ground to set aside the award.

52. Before the labour Court, the management tried to justify the order of dismissal on the charge relating to disruption in the disciplinary proceeding.

53. It is also alleged by the respondent - Management that during the disciplinary enquiry, the petitioner did not co-operate in the proceeding and committed misconduct by interfering with the disciplinary proceeding and held out the threat to the witnesses of the respondent.

54. Before the Labour Court the respondent-company has examined four witnesses and produced 87 documents. Witnesses have been cross examined. The Labour Court has not analysed the evidence brought out in the cross examination. It has simply believed and accepted the version of the Presiding Officer in the domestic enquiry and, one more witness, both being the employees of the respondent, to hold that the petitioner has disrupted the domestic enquiry and threatened one witness. This finding is recorded in page No. 16 of the impugned award without analyzing the evidence in the cross examination of those witness.

55. The Labour Court was in error in coming to such a conclusion on the allegation of disruption in domestic enquiry and alleged threat to the witness. The reason is quite simple. Before the matter landed in the Labour Court, no charge memo is issued alleging disruption of domestic enquiry. No domestic enquiry was conducted in this behalf. The enquiry on the allegation of disruption of domestic enquiry and threat to the witness was conducted for the first time before the Labour Court. Thus, the Labour Court was expected to consider the evidence on both sides in this behalf and thereafter, should have taken a view. However the finding on the allegation of disruption in domestic enquiry and alleged threat to the witness is not based on assessment of evidence on both sides which amounts to erroneous decision making process. Thus, the said finding that the petitioner caused disruption in domestic enquiry and threatened the witness has to be set aside.

56. In the normal course, the Court would have remanded the matter to the Labour Court to consider the evidence on both sides afresh and to pass appropriate orders on the charge relating to disruption of the domestic enquiry. However, the award is of the year 2013 and the incident is of the year 2009. Thus, such an exercise is not desirable.

57. In addition, it is not the case of the petitioner that filing a false complaint against the official of the Company is not misconduct or is not a serious misconduct attracting penalty of dismissal.

58. Now the question is whether the order of dismissal is proportionate to the misconduct proved. The Labour Court held that the petitioner disrupted and interfered in the domestic enquiry and also lodged false complaint. The finding relating to alleged disruption and interference is not supported by analysis of evidence though both parties led evidence in support of their respective claims. The finding on the said charge as already noticed is just based on casual reference to the statements by the witnesses

examined by the respondent. Hence, this Court has interfered with the said finding.

59. Thus, the only proven ground for dismissal is petitioner's false complaint against the employee of the respondent- Company. This Court is of the view that it is a peculiar case where the contention that petitioner hit himself is not proved with concrete evidence. At the same time, the petitioner's contention that Mr.Kennedy assaulted the petitioner is also not proved though the 'B' report would indicate that petitioner assaulted himself. Thus by reason of logic, the petitioner's complaint against Mr.Kennedy is to be held as a false complaint.

60. It is not the case of the respondent-management that the petitioner was subjected to any disciplinary enquiry in the past. Admittedly, the petitioner is a differently abled person. In page No. 3 of the order of dismissal it is observed that the petitioner's disability has not affected his efficiency. However, the other observations made in unnumbered paragraph No. 3 of page No. 3 of the order of dismissal, exhibits lack of sensitivity on the part of the respondent.

61. Since the petitioner is differently abled, the Court can also take note of the fact that securing employment after dismissal was not an easy task. Though the proven misconduct enabled the respondent to impose penalty of dismissal, and the Labour Court upheld the penalty of dismissal on the premise that both charges are proved, this Court has taken a view that only one charge is proved by applying the test of 'preponderance of probability'.

62. In the peculiar facts and circumstances of this case, more particularly, considering the fact that the petitioner is differently abled, with less employment opportunities, this Court is of the view that the petitioner should be awarded a compensation of Rs. 4,00,000/-

63. And in exercise of power under Article 226 of Constitution of India respondent is directed to pay Rs. 4,00,000/- to the petitioner, confirming the order of dismissal.

64. Hence, the following:

ORDER

- (i) The Writ Petition is allowed in part.
- (ii) The impugned award dated 11.07.2013 in I.D. No. 112/2009 on the file of II Additional Labour Court, Bangalore is upheld
- (iii) The respondent is directed to pay Rs. 4 lacs to the petitioner within 45 days from the receipt of the copy of the order failing which the respondent shall pay simple interest @ 6% p.a. from the date of the order till repayment.

¹W.P 104944/2021