

BEFORE THE PRINCIPAL LABOUR COURT, COIMBATORE

Present: Tmt. A.P.Latha, B.Sc., B.L.,
Presiding Officer,
Principal Labour Court,
Coimbatore.

Friday, the 23rd day of January 2026.

ID. No. 119/2022

(CNR No.TNCB-04-000529-2022)

K. Sivakumar, Age (47)
S/o. Krishnan,
D. No. 5/547, Via Vidyalayam,
Naickenpalayam,
Periyanaickenpalayam,
Coimbatore – 641 020.

..... Petitioner

~ Versus ~

The Management,
L.G. Balakrishnan & Brothers Ltd.,
Vaiyampalayam Plant,
Vaiyampalayam,
Coimbatore – 641 110

..... Respondent

This Petition came up for final hearing before me on 22.01.2026 in the presence of Thiru. Louis. K. Thomans, Learned counsel for the Petitioner and Thiru.R. Paarthiban, Learned counsel for the Respondent and upon perusing the

entire case records, upon hearing the arguments of both sides, and having stood over for consideration till this date, this Court passed the following :-

PRELIMINARY AWARD

The petitioner seeks to set aside the impugned dismissal order dated 21.05.2019 and to reinstate him in service with continuity of service, full back wages, and all other attendant benefits, together with costs, under Section 2(A)(2) of the Industrial Disputes Act, 1947.

2. Petition averments in brief :

The petitioner, Mr.K.Sivakumar, joined the respondent management on 26.06.1993 after completing his 12th standard. His initial salary was Rs. 600/-, and his last drawn salary was Rs.17,370/-. The respondent company is engaged in the manufacture of two-wheeler chains and has grown into a profit-making establishment due to the hard work of the petitioner and other employees. The petitioner has 25 years of unblemished service and has never faced any disciplinary action. While working as a machine operator (pin cutting), the petitioner was transferred to Orbital Tumbling and later to the Shot Peening Department without any notice under Section 9A of the Industrial Disputes Act. On 06.06.2017, while loading components, he suffered a severe back injury due to Disk Space Reduction, resulting from carrying heavy materials. Despite medical evidence from ESI Hospital, the respondent failed

to issue an accident report, thereby depriving him of proper ESI medical benefits. Subsequently, the petitioner sought certificates through letters dated 10.07.2017 and 07.08.2017, which were not provided, forcing him to undergo ayurvedic treatment. Being a member of Ulaiporu Urimai Iyakkam (Union), he participated in a strike from 24.01.2018 to 20.08.2018. On resuming duty on 25.08.2018, he was denied entry and employment. Thereafter, a domestic enquiry was initiated on 31.08.2018, which, according to the petitioner, was conducted in violation of the principles of natural justice. He was denied copies of key documents, standing orders, and the assistance of a lawyer or union representative. The enquiry officer, being biased and partisan, ignored the petitioner's medical records and submissions.

3. Based on the flawed enquiry, the petitioner was dismissed from service on 21.05.2019, and the order was approved by the Deputy Commissioner of Labour, Coimbatore, only on 14.12.2021. However, the approval order was communicated to the petitioner belatedly on 24.05.2022, after repeated requests. The petitioner thereafter filed a 2(A)(1) petition on 02.06.2022, well within the limitation period as clarified by the Hon'ble Supreme Court in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. vs. Ram Gopal Sharma (2002) and Babasaheb Raosaheb Kobarne vs. Pyrotek India Pvt. Ltd., which exclude the period from 15.03.2020 to 28.02.2022 due to the COVID-19 lockdown. The petitioner submits that the domestic enquiry was vitiated, the findings were perverse, and the punishment disproportionate to the

alleged misconduct, amounting to victimization and unfair labour practice. He has been unemployed since his dismissal, causing severe hardship to his family. Accordingly, the petitioner seeks to set aside the impugned dismissal order dated 21.05.2019 and to reinstate him in service with continuity of service, full back wages, and all other attendant benefits, together with costs

4. Counter averments in brief :

The respondent submits that the petitioner was dismissed from service for a proved act of misconduct of continuous unauthorized absence for 242 days between 26.06.2017 and 11.04.2018. The petitioner absented himself from duty without prior intimation or permission, which constitutes misconduct under the Certified Standing Orders. Consequently, disciplinary proceedings were initiated by issuing a show cause notice dated 11.04.2018, followed by a fair and proper domestic enquiry conducted in adherence to the principles of natural justice. The petitioner participated fully in the enquiry and availed all opportunities to defend himself. Hence, he cannot now challenge the validity of the enquiry or make unfounded allegations against the enquiry officer. Considering the gravity of the misconduct, the respondent was compelled to dismiss the petitioner in accordance with the Standing Orders. The dispute raised by the petitioner is not maintainable in law.

5. The respondent company manufactures two-wheeler chains and is required to maintain strict quality and timely delivery to its customers. Unauthorized absenteeism of workers like the petitioner disrupts production schedules, affects product quality, and risks cancellation of orders, thereby damaging the company's reputation. To maintain discipline and ensure timely delivery, the management takes disciplinary action against habitual absentees. Despite repeated advice letters, the petitioner continued to remain absent, causing production loss. The petitioner joined as an apprentice on 26.06.1993, was confirmed on 26.12.1996, and his last drawn salary was Rs.17,370/-. He was irregular in attending duty and, despite reminders, failed to submit any explanation for his absence. The domestic enquiry was conducted between 08.09.2018 and 29.12.2018 on multiple dates, where the petitioner attended, cross-examined management witnesses, and was allowed to produce his own evidence. The enquiry officer, after considering oral and documentary evidence, found him guilty of the charges in his findings dated 08.02.2019. Based on this, a second show cause notice dated 12.02.2019 was issued. The petitioner's explanations dated 28.02.2019 and 23.03.2019 were unsatisfactory, and accordingly, he was dismissed from service on 21.05.2019.

6. The dismissal was approved under Section 33(2)(b) of the Industrial Disputes Act in Approval Petition No. 431/2019 by the Deputy Commissioner of Labour, Coimbatore, on 14.12.2021, after due consideration of evidence from both parties. Therefore, the petitioner is estopped from challenging the validity of the

domestic enquiry again before this Court. The allegations of victimization and unfair labour practice are false and baseless. The enquiry was fair, unbiased, and conducted with due adherence to the principles of natural justice. The petitioner was earlier punished for absenteeism in 2016, proving a consistent pattern of misconduct. His claims regarding back pain and alleged transfer-related victimization are false and fabricated to escape disciplinary action. The transfer within departments did not violate Section 9A of the Industrial Disputes Act, as such transfers were within management's administrative discretion. The petitioner's participation in an illegal strike cannot justify his unauthorized absence. The plea that he is unemployed is false. The domestic enquiry is valid in all respects. The punishment of dismissal is proportionate to the gravity of the misconduct and justified under Section 11A of the Industrial Disputes Act. Therefore, the industrial dispute raised by the petitioner is devoid of merit, legally unsustainable, and liable to be dismissed with costs.

7. Point for Determination :-

Whether the domestic enquiry conducted by the respondent / management is proper and valid ?

8. During enquiry no oral evidence is adduced in both sides, but Ex.W1 to Ex.W4 and Ex.M1 to Ex.M33 documents are marked by consent.

9. The Point :

The leaned counsel for the petitioner submitted that the petitioner is the permanent employee of the respondent and when he was working in shot penning

department on 06.06.2017 and while he was loading a component, he sustained disc space reduction which led to severe back pain and after the incident the petitioner addressed the respondent to issue a certificate in order to avail treatment from ESI Hospital but, the respondent failed to issue the same and therefore the petitioner decided to take Ayurvedhic treatment and took ayurvedhic treatment and recovered slowly. Due to the treatment the petitioner was unable to attend duty and on 11.04.2018 the respondent issued a show cause notice alleging that the petitioner was continuously absent for period from 22.06.2017 to 11.04.2018 totalling to 242 days and the petitioner replied the same, but the respondent without considering the reply of the petitioner issued enquiry notice on 31.08.2018 and proceeded with the enquiry. Further submitted that during enquiry the petitioner filed a petition before the enquiry officer and to the respondent dated 08.09.2018 requesting to provide a copy of certified standing order to conduct the enquiry in tamil, to issue copy of the enquiry proceedings then and there, to produce the list of management witness in advance, copy of complaint if any, and to allow an advocate or union leader to be an observer on the side of petitioner during enquiry proceedings, but the respondent failed to comply the report and permitted only a co-worker of the petitioner on the side, therefore the enquiry proceedings and the enquiry conducted by the respondent is not fair and proper.

10. The learned counsel for the respondent submitted that the petitioner was absent from duty from 26.06.2017 onwards and on 03.10.2017, 10.11.2017, 22.12.2017 and 31.03.2018 the respondent issued letter to the petitioner to report for duty, but the petitioner failed to report duty and therefore on 11.04.2018 the respondent issued a show cause notice dated 11.04.2018, calling upon the petitioner to explain that why the petitioner was absent for duty for a period of 242 days from 26.06.2017 to 11.04.2018, but the petitioner failed to respond. Further submitted that since the petitioner failed to respond to the show cause notice dated 11.04.2018 the respondent issued enquiry notice on 31.08.2018 and after receipt of enquiry notice the petitioner addressed a letter dated 08.09.2018 to provide documents and a permit a lawyer to be the observer in the domestic enquiry proceedings, which is denied by the respondent on the ground that the standing order never provides such a relief to the petitioner and thereafter the enquiry officer conducted the domestic enquiry. Again submitted that during enquiry proceedings due and fair opportunities was given to the petitioner and the petitioner also fully co-operated with domestic enquiry and also satisfied with the proceedings and since the petitioner failed to produce any acceptable documents to condone the absence of 242 days, the enquiry officer found that the petitioner committed the act of misconduct as per clause 16(18) of the respondent standing orders and therefore the respondent issued 2nd show cause notice dated 12.02.2019 and the petitioner replied the 2nd show cause notice on 28.02.2019 pleading that the domestic enquiry conducted by the enquiry officer is against the

principle of actual justice and not satisfied by the reply of the petitioner the respondent issued an order of dismissal of the petitioner from service on 21.05.2019 and on the same day the respondent applied for permission before the Assistant Commissioner of Labour under section 33(2)(b) of the ID Act and the Assistant Commissioner of Labour approved the order of the dismissal by the order dated 14.12.2021 and thereby pleaded that the domestic enquiry conducted by the respondent is fair and proper, order of dismissal is in accordance with law and urged to dismiss the petition.

11. Ex.M2 letter of the respondent dated 26.12.1996 discloses that the petitioner is permanent employee of the respondent. Ex.M18 is the enquiry notice issued to the petitioner dated 31.08.2018 which discloses that since the petitioner failed to answer. Ex.M15 show cause notice dated 11.04.2018 the respondent proposed to conduct a domestic enquiry and the hearing stands posted on 08.09.2018. On receipt of enquiry notice dated 31.08.2018, the petitioner issued Ex.M19 letter dated 08.09.2018 to the enquiry officer asking for copy of standing order in Tamil, to conduct the enquiry in tamil, to issue enquiry proceedings then and there, the witness schedule of the management need to provide in advance, copy of complaint if any, if the enquiry officer is a legal practioner or an advocate then the petitioner can be permitted to have an advocate as his observer and also permit him to join duty. Ex.M20 letter dated 03.10.2018 discloses that the respondent permitted the petitioner

to have a co-worker as his observer during domestic enquiry proceedings. Further in Ex.M20 letter of the respondent dated 03.10.2018 it is specifically stated that if the enquiry officer is a legal practitioner, the standing order never provides permission to petitioner/deliquent to have a legal practitioner to be the observer in the domestic enquiry proceedings. In support of the plea of the petitioner the decision cited in AIR ONLINE 2015 SC 483 is cited. In Para 30 of the said decision it is stated that if the legal practitioner is appointed as enquiry officer in the enquiry initiated against the employee the denial of assistance of legal practitioner to the charged employee would be unfair. In the present case the enquiry is conducted by an advocate by name Thiru.T. Neelakandan. In the said decision enquiry officer is retired Honourable High Court Judge. But in the present case the enquiry is conducted by an advocate. As per Ex.M20 letter of the respondent dated 03.10.2018 the petitioner is permitted to have a co-worker as his observer. The contention of the respondent is that standing order never provides that a legal practitioner can be permitted as observer on the side of the employee. Standing orders can not go against the principles of natural justice. Since the enquiry officer is an advocate the respondent could have permitted atleast a Union leader or an officer bearer of the union to be the observer to meet the essential principles of natural justice. The refusal of the respondent could amount to denial of reasonable request of the petitioner to defend the petitioner from the misconduct alleged and there by the enquiry officer violated the essential of principles of natural justice and therefore the enquiry proceedings are not proper and valid.

12. Further the charge levelled against the petitioner is that petitioner was absent from duty for the period from 26.06.2017 to 11.06.2018 for the period of 242 days. In Ex.M29 enquiry report in Page 19 last but one paragraph reads that the enquiry officer very much considered Ex.M11 to Ex.M20 documents and came to a conclusion that the charge alledged in the show cause notice is proved. Therefore it is evident that the enquiry officer applied his mind in Ex.M11 to Ex.M20 documents before rendering his finding. Ex.M11 is the letter of the respondent addressed to the petitioner dated 03.10.2017 in which it is stated that the petitioner is absent from duty for a period from 26.07.2017 to 18.09.2017. Also in Ex.M12 letter letter of the respondent dated 10.11.2017 it is stated that the petitioner was absent from duty 26.07.2017 to 10.11.2017. Again in Ex.M13 letter of the respondent dated 22.12.2017 the petitioner was absent from 26.07.2017 to 22.12.2017. Ex.M11 to M13 letters of the respondent addressed to the petitioner discloses that the petitioner was absent from duty from 26.07.2017 onwards. But Ex.M15 show cause notice and Ex.M29 enquiry report discloses that the petitioner was absent from duty from 26.06.2017 onwards. Therefore whether the petitioner was absent from duty from 26.07.2017 as stated in Ex.M11 to M13 documents or was absent from duty from 26.06.2017 as stated in show cause notice is not at all clarified by the enquiry officer in the enquiry report and therefore it is decided that the enquiry officer failed to peruse and consider the documents and without applying his mind to Ex.M11 to M13 documents passed the enquiry report which is not proper and valid.

Hence as per the reasons assigned above it is decided that the domestic enquiry conducted by the respondent is not proper and valid and the findings of the enquiry officer and report are set aside and the point is answered accordingly.

For further proceedings call on 30.01.2026.

(Dictated to the Steno-Typist, and computerised by her, corrected and pronounced by me on this, the 23rd day of January, 2026).

PRESIDING OFFICER,
PRINCIPAL LABOUR COURT,
COIMBATORE.

LIST OF WITNESSES EXAMINED

For Petitioner Side : Nil
For Respondent Side : Nil

LIST OF EXHIBITS MARKED.

For Petitioner side :

Exhibits	Documents	Date	Remarks
Ex.W1	Letter by the petitioner to the respondent requesting not to issue a termination order and not to initiate disciplinary proceedings against him.	28.02.2019	Xerox
Ex.W2	Medical report of the petitioner by the ESIC Hospital	19.06.2017	Xerox
Ex.W3	Letter from the petitioner to the Enquiry Officer requesting the release of the charges framed against him	22.12.2018	Xerox
Ex.W4	ESIOP first and final certificate of the petitioner		Xerox

For Respondent side :

Exhibits	Documents	Date	Remarks
Ex.M1	The respondent issued a probation order to the	26.06.1996	Xerox

	petitioner, confirming his employment on a probationary basis		
Ex.M2	The respondent issued an order confirming the petitioner's employment as permanent	26.12.1996	Xerox
Ex.M3	Warning notice issued to the petitioner by the management	29.04.2017	Xerox
Ex.M4	Medical records of the petitioner	-	Xerox
Ex.M5	Letter from the petitioner to the respondent explaining the incident that occurred on 06.06.2017 due to an injury sustained in the course of work.	15.06.2017	Xerox
Ex.M6	Reply of the respondent for the petitioner's letter dated 15.06.2017	29.06.2017	Xerox
Ex.M7	Leave application by the petitioner due to an injury sustained in the course of work.	10.07.2017	Xerox
Ex.M8	Reply by the respondent for the petitioner's letter dated 10.07.2017	24.07.2017	Xerox
Ex.M9	Letter from the petitioner to the respondent requesting a continuous service certificate for ESI treatment	07.08.2017	Xerox
Ex.M10	Reply by the respondent for the petitioner's letter dated 07.08.2017	23.08.2017	Xerox
Ex.M11	Notice of the respondent to the petitioner	03.10.2017	Xerox
Ex.M12	Notice of the respondent to the petitioner	10.11.2017	Xerox
Ex.M13	Notice of the respondent to the petitioner	22.12.2017	Xerox
Ex.M14	Notice of the respondent to the petitioner	31.03.2018	Xerox
Ex.M15	Show cause notice issued to the petitioner	11.04.2018	Xerox
Ex.M16	Warning letter issued to the petitioner by the management	07.05.2018	Xerox
Ex.M17	Track consignment online receipt	-	Xerox
Ex.M18	Enquiry notice	31.08.2018	Xerox
Ex.M19	Letter from the petitioner to the enquiry officer	08.09.2018	Xerox
Ex.M20	Reply given by the respondent for the petitioner's letter to the enquiry officer dated 08.09.2018	03.10.2018	Xerox

Ex.M21	Letter from the petitioner to the respondent requesting permission to be allowed to resume work	12.10.2018	Xerox
Ex.M22	Letter from the petitioner to the respondent requesting that his objections be recorded and the domestic enquiry be continued	13.10.2018	Xerox
Ex.M23	Medical records of the petitioner	-	Xerox
Ex.M24	Standing orders of the respondent management	-	Xerox
Ex.M25	Affidavit of the HR of the respondent management submitted to the Enquiry Officer	03.11.2018	Xerox
Ex.M26	Letter from the petitioner to the Enquiry Officer requesting the release of the charges framed against him	22.12.2018	Xerox
Ex.M27	Muster Roll and Register of Compensatory Holidayys from the month fo June 2017 to April 2018	-	Xerox
Ex.M28	Domestic enquiry proceedings	-	Xerox
Ex.M29	Findings of the enquiry officer	08.02.2019	Xerox
Ex.M30	Order of the respondent along with the copy of approval petition	21.05.2019	Xerox
Ex.M31	Copy of Approval Petition in A.P.No. 431/2019	21.05.2019	Xerox
Ex.M32	Counter statement of the Approval Petition in AP. No. 431/2019	30.01.2020	Xerox
Ex.M33	Order of the Deputy Commissioner of Labour/Conciliation Officer in Approval Petition No. 431/2019	14.12.2021	Xerox

**PRESIDING OFFICER,
PRINCIPAL LABOUR COURT,
COIMBATORE.**

Fair/Draft Preliminary Award in
ID No.119/2022 Dt : 23.01.2026
PLC, CBE.