

GAHC010041362023



2026:GAU-AS:4396

**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/1306/2023**

THE MANAGEMENT OF ASSAM CO OPERATIVE JUTE MILLS LTD.  
A REGISTERED CO-OPERATIVE SOCIETY, A GOVERNMENT OF ASSAM  
ENTERPRISE  
HAVING ITS OFFICE AT SILGHAT, P.O- SILGHAT, DISTRICT- NAGAON,  
ASSAM.  
REPRESENTED BY ITS MANAGER (PRODUCTION CUM PERSONNEL AND  
ADMINISTRATION) SRI BIMAL KUMAR SARMA, 49 YEARS.

VERSUS

THE STATE OF ASSAM AND 3 ORS.  
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE  
GOVERNMENT OF ASSAM,  
LABOUR AND EMPLOYMENT DEPARTMENT,  
DISPUR, GUWAHATI-6.

2:DEPUTY COMMISSIONER TO THE GOVERNMENT OF ASSAM  
LABOUR AND EMPLOYMENT DEPARTMENT  
DISPUR  
GUWAHATI-6.

3:ASSISTANT LABOUR COMMISSIONER  
NAGAON.

4:JAYANTA BORKAKATI  
SON OF SRI GOLAP BORKATAKI

RESIDENT OF VILLAGE AND P.O.- PUBTHARIA

P.S.- KALIABOR  
DISTRICT- NAGAON

ASSAM

**Advocate for the Petitioner** : MR. M NATH, MR. D P BORAH,MR U GHOSH

**Advocate for the Respondent** : GA, ASSAM, MS A KALITA (R4)

**- B E F O R E -**

**HON'BLE MR. JUSTICE KAUSHIK GOSWAMI**

For the Petitioner (s) : Mr. M Nath, Mr. D. P. Borah, Mr. U Ghosh.

For the Respondent(s) : Ms. A Kalita, for the respondent No. 4.

Date on which judgment is reserved : **19.03.2026**

Date of pronouncement of judgment : **27.03.2026**

Whether the pronouncement is of the  
operative part of the judgment ? : **Yes**

Whether the full judgment has been  
Pronounced : **No.**

## **JUDGMENT & ORDER (CAV)**

Heard Mr. M. Nath, learned Senior Counsel assisted by Mr. D. P. Borah, learned counsel for the writ petitioner. Also heard Ms. A. Kalita, learned counsel for the respondent No. 4.

**2.** The present writ petition under Article 226 of the Constitution of India is directed against the award dated 13.02.2022 passed by the learned Labour Court, Assam in Case No. 01/2022 under Section 2A(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as "the 1947 Act"), whereby the termination of the respondent workman was held to be illegal and the petitioner management was directed to reinstate him in service within three months, albeit with stoppage of three increments with cumulative effect and without back wages.

**3.** The brief facts of the case are that the respondent No. 4 workman was appointed as a Technical Worker (Fitter) on 01.07.2008. Allegations were levelled against him relating to misconduct, including indiscipline, absenteeism, and acts prejudicial to the interests of the organization. A domestic enquiry was conducted, culminating in termination of his service by order dated 02.06.2020.

**4.** Aggrieved, the workman invoked Section 2A of the 1947 Act before the learned Labour Court, Assam, seeking reinstatement in service with full back wages.

**5.** Thereafter, the learned Labour Court, upon adjudication, by the impugned award dated 13.12.2022, held the domestic enquiry to be improper and proceeded to set aside the termination and direct reinstatement, though without

back wages. Situated thus, the present writ petition.

**6.** Mr. M. Nath, learned Senior Counsel for the petitioner, submits that the learned Labour Court, upon holding the domestic enquiry conducted by the petitioner management to be unfair and improper, ought not to have straightaway directed reinstatement of the workman. It is contended that it was obligatory for the Labour Court to first decide the validity of the domestic enquiry, and if answered in the negative, to thereafter decide the issue of termination on merits by giving both parties an opportunity to adduce evidence.

He submits that when dismissal/termination of a workman is brought before the Labour Court either by way of reference under Section 10 or under Section 2A(2) of the 1947 Act, it is obligatory for the Labour Court to first decide the validity of the domestic enquiry. In the event the enquiry is found to be defective or invalid, the Court must then enter into the merits by giving an opportunity to the parties to adduce evidence afresh.

In support of the aforesaid submission, reliance is placed on the following decisions of the Apex Court:

- (i) ***Management of Ritz Theatre (Private) Ltd. Delhi -Vs- Workmen***, reported in ***(1963) 3 SCR 461***.
- (ii) ***Sur Enamel and Stamping Works Ltd -Vs- The workman***, reported in ***AIR 1963 Supreme Court 1914***.
- (iii) ***Delhi Cloth and General Mills Co. -Vs- Ludh Budh Singh***, reported in ***(1972) 1 SCC 595***.
- (iv) ***The workmen of M/S Firestone Tyre and Rubber Co. of India (Pvt.) Ltd -Vs- The Management and Others***, reported in

**(1973) 1 SCC 813.**

(v) ***The Cooper Engineering Limited -Vs- Shri P. P. Mundhe,*** reported in ***(1975) 2 SCC 661.***

(vi) ***Neeta Kaplish -Vs- Presiding Officer, Labour Court and Another,*** reported in ***(1999) 1 SCC 517.***

(vii) ***The East India Hotel -Vs- Their Workmen and Others.,*** reported in ***AIR 1974 Supreme Court 696.***

(viii) ***Shankar Chakravarti -Vs- Britannia Biscuit Co. Ltd. And Another,*** reported in ***(1979) 3 SCC 371.***

(ix) ***India General Navigation and Railway Co. Ltd. -Vs- Their Workmen,*** reported in ***AIR 1960 Supreme Court 219.***

(x) ***M/s. Indian Iron and Steel Co. and Another -Vs- Their Workmen,*** reported in ***AIR 1958 Supreme Court 130.***

(xi) ***The State Bank of India -Vs- R. K Jain and Others,*** reported in ***AIR 1972 Supreme Court 136.***

(xii) ***Ruston and Hornsby (I) LTd -Vs- T. B. Kadam,*** reported in ***AIR 1975 Supreme Court 2025.***

**7.** Per contra, Ms. Kalita, learned counsel appearing for the respondent workman, submits that there is no provision in the 1947 Act which obligates the learned Labour Court to grant an opportunity to the parties to adduce evidence after holding the domestic enquiry to be invalid. It is contended that in the absence of any request whatsoever from the management seeking permission to adduce evidence on merits in the event the domestic enquiry is found to be improper or invalid, the learned Labour Court cannot be faulted for proceeding

without granting such opportunity.

**8.** Having heard the learned counsel for the parties and having perused the materials available on record, including the records of the learned Labour Court and the case laws cited at the Bar, the short question falling for determination in the present case is - whether the learned Labour Court, upon holding the domestic enquiry to be invalid or defective, could have straightaway directed reinstatement of the respondent workman without affording an opportunity to the management to adduce evidence on merits.

**9.** Apt at the outset to refer to the provision of Section 11 (A) of the 1947 Act, which was introduced in the ID Act w.e.f. 15.12.1971 by the amendment Act of 45 of 1971.

*“[11A. Powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen.—Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require: Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.]”*

**10.** Pursuant to the aforesaid amendment introduced in the Act by Parliament, the Labour Court/Tribunal is vested not only with the power to set aside the order of dismissal and direct reinstatement of the workman, but also to award a lesser punishment in appropriate cases. It is, however, pertinent to note that the proviso to the amended Section 11(A) stipulates that the Tribunal shall rely only

upon the materials already on record and shall not take any fresh evidence in relation to the matter.

It is apposite to note that, even prior to the said amendment, the Apex Court in ***Management of Ritz Theatre*** (supra) had laid down that where the management seeks to justify its action on the basis of a domestic enquiry, it is incumbent upon the Tribunal to first examine the validity of such enquiry. Only upon arriving at a conclusion that the enquiry is defective or invalid does the Tribunal acquire jurisdiction to enter into the merits of the dispute and call upon the parties to adduce evidence.

Subsequently, in ***Delhi Cloth and General Mills*** (supra), the Apex Court elaborately explained the stage and procedure governing the grant of opportunity to the parties to adduce fresh evidence where the domestic enquiry is found to be defective or invalid. The principles laid down therein are reproduced as under –

*“(1) If no domestic enquiry had been held by the management, or if the management makes it clear that it does not rely upon any domestic enquiry that may have been held by it, it is entitled to straightaway adduce evidence before the Tribunal justifying its action. The Tribunal is bound to consider that evidence so adduced before it, on merits, and give a decision thereon. In such a case, it is not necessary for the Tribunal to consider the validity of the domestic enquiry as the employer himself does not rely on it.*

*(2) If a domestic enquiry had been held, it is open to the management to rely upon the domestic enquiry held by it, in the first instance, and alternatively and without prejudice to its plea that the enquiry is proper and binding, simultaneously adduce additional evidence before the Tribunal justifying its action. In such a case no inference can be drawn, without anything more than the management has given up the enquiry conducted by it.*

*(3) When the management relies on the enquiry conducted by it, and also simultaneously adduces evidence before the Tribunal, without prejudice to its plea that the enquiry proceedings are proper, it is the duty of the Tribunal, in the first instance, to consider whether the enquiry proceedings conducted by the*

*management, are valid and proper. If the Tribunal is satisfied that the enquiry proceedings have been held properly and are valid, the question of considering the evidence adduced before it on merits, no longer survives. It is only when the Tribunal tholds that the enquiry proceedings have not been properly held, that it derives jurisdiction to deal with the merits of the dispute and in such a case it has to consider the evidence adduced before it by the management and decide the matter on the basis of such evidence.*

*(4) When a domestic enquiry has been held by the management and the management relies on the same, it is open to the latter to request the Tribunal to try the validity of the domestic enquiry as a preliminary issue and also ask for an opportunity to adduce evidence before the Tribunal, if the finding on the preliminary issue is against the management. However elaborate and cumbersome the procedure may be, under such circumstances, it is open to the Tribunal to deal, in the first instance, as a preliminary issue the validity of the domestic enquiry. If its finding on the preliminary issue is in favour of the management, then no additional evidence need be cited by the management. But, if the finding on the preliminary issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence and also give a similar opportunity to the employee to lead evidence contra, as the request to adduce evidence had been made by the management to the Tribunal during the course of the proceedings and before the trial has come to an end. When the preliminary issue is decided against the management and the latter leads evidence before the Tribunal, the position, under such circumstances, will be, that the management is deprived of the benefit of having the finding of the domestic Tribunal being accepted as prima facie proof of the alleged misconduct. On the other hand, the management will have to prove, by adducing proper evidence, that the workman is guilty of misconduct and that the action taken by it is proper. It will not be just and fair either to the management or to the workman that the Tribunal should refuse to take evidence and thereby ask the management to make a further application, after holding a proper enquiry, and deprive the workman of the benefit of the Tribunal itself being satisfied, on evidence adduced before it, that he was or was not guilty of the alleged misconduct.*

*(5) The management has got a right to attempt to sustain its order by adducing independent evidence before the Tribunal. But the management should avail itself of the said opportunity by making a suitable request to the Tribunal before the proceedings are closed. If no such opportunity has been availed of, or asked for by the management, before the proceedings are closed, the employer can make no grievance that the Tribunal did not provide such an opportunity. The Tribunal will have before it only the enquiry proceedings and it has to decide*

*whether the proceedings have been held properly and the findings recorded therein are also proper.*

*(6) If the employer relies only on the domestic enquiry and does not simultaneously lead additional evidence or ask for an opportunity during the pendency of the proceedings to adduce such evidence, the duty of the Tribunal is only to consider the validity of the domestic enquiry as well as the finding recorded therein and decide the matter. If the Tribunal decides that the domestic enquiry has not been held properly, it is not its function to invite suo moto the employer to adduce evidence before it to justify the action taken by it.*

*(7) The above principles apply to the proceedings before the Tribunal, which have come before it either on a reference under Section 10 or by way of an application under Section 33 of the Act.”*

**11.** A careful reading of the aforesaid principles makes it manifest that the management has multiple procedural options available while defending an order of dismissal. It may either rely upon the domestic enquiry conducted by it or, alternatively, choose not to rely upon such enquiry and directly adduce evidence before the Tribunal to justify its action.

In cases where no domestic enquiry has been conducted, or where the management elects not to rely upon the enquiry, the Tribunal is bound to adjudicate the matter on the basis of evidence adduced before it on merits.

Conversely, where the management relies upon the domestic enquiry, it may, in the alternative and without prejudice to its primary stand, seek permission to adduce additional evidence in the event the enquiry is held to be defective. In such a situation, it is incumbent upon the Tribunal to first decide the validity of the enquiry as a preliminary issue. If the finding is in favour of the management, the matter ends there. However, if the finding is against the management, the Tribunal must then permit the parties to adduce evidence on merits, provided such a request has been made at the appropriate stage.

It is, therefore, evident that the right to adduce evidence is not automatic

but conditional upon the management exercising such option in a timely and appropriate manner. If no such request is made before the closure of proceedings, the Tribunal cannot be faulted for proceeding to decide the matter on the basis of the existing record. The pre-amendment legal position thus stood crystallized through the aforesaid decisions of the Apex Court.

**12.** The next question that arises is whether the introduction of Section 11(A) has altered the aforesaid legal position, and if so, to what extent. This issue came up for consideration before the Apex Court in ***The Workmen of M/s Firestone Tyre and Rubber Co. of India (Pvt.) Ltd.*** (supra).

In the said decision, the Apex Court, after taking note of the principles laid down in Management of ***Ritz Theatre*** (supra) and ***Delhi Cloth and General Mills*** (supra), proceeded to enunciate the governing principles post-amendment, which are reproduced hereinbelow –

*“(1) The right to take disciplinary action and to decide upon the quantum of punishment are mainly managerial functions, but if a dispute is referred to a Tribunal, the latter has power to see if action of the employer is justified.*

*(2) Before imposing the punishment, an employer is expected to conduct a proper enquiry in accordance with the provisions of the Standing Orders, if applicable, and principles of natural justice. The enquiry should not be an empty formality.*

*(3) When a proper enquiry has been held by an employer, and the finding of misconduct is a plausible conclusion flowing from the evidence, adduced at the said enquiry, the Tribunal has no jurisdiction to sit in judgment over the decision of the employer as an appellate body. The interference with the decision of the employer will be justified only when the findings arrived at in the enquiry are perverse or the management is guilty of victimization, unfair labour practice or mala fide.*

*(4) Even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, had to give an opportunity to the*

*employer and employee to adduce evidence before it. It is open to the employer to adduce evidence for the first time justifying his action, and it is open to the employee to adduce evidence contra.*

*(5) The effect of an employer not holding an enquiry is that the Tribunal would not have to consider only whether there was a prima facie case. On the other hand, the issue about the merits of the impugned order of dismissal or discharge is at large before the Tribunal and the latter, on the evidence adduced before it, has to decide for itself whether the misconduct alleged is proved. In such cases, the point about the exercise of managerial functions does not arise at all. A case of defective enquiry stands on the same footing as no enquiry.*

*(6) The Tribunal gets jurisdiction to consider the evidence placed before it for the first time in justification of the action taken only, if no enquiry has been held or after the enquiry conducted by an employer is found to be defective.*

*(7) It has never been recognized that the Tribunal should straight-away, without anything more, direct reinstatement of a dismissed or discharged employee, once it is found that no domestic enquiry has been held or the said enquiry is found to be defective.*

*(8) An employer, who wants to avail himself of the opportunity of adducing evidence for the first time before the Tribunal to justify his action, should ask for it at the appropriate stage. If such an opportunity is asked for, the Tribunal has no power to refuse. The giving of an opportunity to an employer to adduce evidence for the first time before the Tribunal is in the interest of both the management and the employee and to enable the Tribunal itself to be satisfied about the alleged misconduct.*

*(9) Once the misconduct is proved either in the enquiry conducted by an employer or by the evidence placed before a Tribunal for the first time, punishment imposed cannot be interfered with by the Tribunal except in cases where the punishment is so harsh as to suggest victimization.*

*(10) In a particular case, after setting aside the order of dismissal, whether a workman should be reinstated or paid compensation is, as held by this Court in *The Management of Panitole Tea Estate v. The Workmen*, within the judicial decision of a Labour Court or Tribunal."*

**13.** The Apex Court, after laying down the aforesaid principles, clarified that the right of the employer to adduce evidence to justify its action continues even

under the amended Section 11(A). It was further emphasized that the jurisdiction of the Tribunal to reappraise evidence arises only after the domestic enquiry is found to be defective or invalid.

Significantly, in Principle No. (8), the Apex Court unequivocally held that an employer who seeks to avail the opportunity of adducing evidence for the first time before the Tribunal must do so at the appropriate stage. Where such a request is made, the Tribunal has no discretion to refuse the same. Conversely, there is no obligation cast upon the Tribunal to suo motu invite the employer to adduce evidence in the absence of any such request.

The Apex Court thus reaffirmed the legal position laid down in ***Delhi Cloth and General Mills*** (supra) with regard to the stage at which such a request must be made.

**14.** Thereafter, in ***Cooper Engineering Ltd.*** (supra), the Apex Court further clarified that the appropriate stage for the employer to seek such an opportunity would be when the Tribunal records a finding that the domestic enquiry is invalid. At that stage, the employer must specifically seek permission to adduce evidence to justify its action.

**15.** In ***Shankar Chakravarti*** (supra), an argument was advanced that the decision in Cooper Engineering Ltd. imposed an obligatory duty upon the Labour Court/Tribunal to frame a preliminary issue regarding the validity of the domestic enquiry and, upon deciding the same against the management, to grant an opportunity to the employer to adduce evidence irrespective of whether such a request had been made. The Apex Court categorically rejected the said contention and held as under –

*“We are afraid that much is being read into the observation of this Court which is*

*not either expressly or by necessary implication stated. There is nothing to suggest that in Cooper Engineering Ltd. case this Court specifically overruled the decision in R. K. Jain case where the Court in terms negated the contention of the employer that there is an obligatory duty in law on the Labour Court or the Industrial Tribunal to give an opportunity to the employer irrespective of the fact whether it is asked for or not to adduce additional evidence after recording a finding on the preliminary issue that either no domestic enquiry was held or the one held was defective.”*

The Court clarified that no such mandatory duty exists and that the obligation to seek permission to adduce evidence rests squarely upon the employer.

**16.** The issue as to the stage at which such a request is to be made was further considered in ***Shambhu Nath Goyal Vs. Bank of Baroda***, reported in **(1983) 4 SCC 491**, wherein the Apex Court held that the right of the employer to adduce evidence must be exercised at the earliest stage of the proceedings, ordinarily in the written statement itself.

It was further held that if the employer intends to avail such an opportunity, it must specifically plead that in the event the domestic enquiry is held to be defective, it seeks permission to adduce evidence to substantiate the charges. Where such a request is made, the Tribunal is bound to grant the opportunity. However, in the absence of such a plea, the Tribunal is under no obligation to advise the employer or grant such opportunity suo motu.

**17.** In ***Rajendra Jha Vs. Presiding Officer, Labour Court, Bokaro Steel City, District Dhanbad & Anr.***, reported in **(1984) Supp SCC 520**, the Apex Court, in the peculiar facts of that case, permitted the employer to adduce evidence even though such a request had not been made in the written statement, but was made before the final order was passed. The Court

held that in the facts of that case, the request could not be said to be belated.

**18.** In view of the apparent divergence between **Shambhu Nath Goyal** (supra) and **Rajendra Jha** (supra), the issue was referred to a larger Bench in **Karnataka State Road Transport Corporation Vs. Lakshmiddevamma**, reported in **(2001) 5 SCC 433**.

The Apex Court, after an exhaustive consideration of the earlier decisions including the case of **Cooper Engineering** (supra), held that the law laid down in **Shambhu Nath Goyal** (supra) represents the correct legal position. It was held that the employer must seek permission to adduce evidence at the earliest stage of the proceedings, and in the absence of such a request, the Labour Court cannot be faulted for proceeding to decide the dispute on the basis of the available material.

The relevant observations made in the case of **Karnataka State Road Transport Corporation** (supra) are extracted herein below –

*“17. Keeping in mind the object of providing an opportunity to the management to adduce evidence before the Tribunal/Labour Court, we are of the opinion that the directions issued by this court in Shambhu Nath Goyal's case need not be varied, being just and fair. There can be no complaint from the management side for this procedure because this opportunity of leading evidence is being sought by the management only as an alternative plea and not as an admission of illegality in its domestic inquiry. At the same time, it is also of advantage to the workmen inasmuch as they will be put to notice of the fact that the management is likely to adduce fresh evidence, hence, they can keep their rebuttal or other evidence ready. This procedure also eliminates the likely delay in permitting the management to make belated application whereby the proceedings before the Labour Court/Tribunal could get prolonged. In our opinion, the procedure laid down in Shambhu Nath Goyal's case is just and fair.*

*18. There is one other reason why we should accept the procedure laid down by this Court in Shambhu Nath Goyal's case. It is to be noted that this judgment was delivered on 27th of September, 1983. It has taken note of almost all the earlier judgments of this Court and has laid down the procedure for exercising*

*the right of leading evidence by the management which we have held is neither oppressive nor contrary to the object and scheme of the Act. This judgment having held the field for nearly 18 years, in our opinion, the doctrine of stare decisis require us to approve the said judgment to see that a long standing decision is not unsettled without strong cause.*

*19. For the reasons stated above, we are of the opinion that the law laid down by this Court in the case of Shambhu Nath Goyal's case is the correct law on the point.”*

**19.** From the conspectus of the aforesaid decisions, the legal position that emerges may be summarized thus:

(i) Where a domestic enquiry is found to be defective or invalid, the employer retains the right to justify the order of dismissal by leading evidence before the Labour Court or Tribunal;

(ii) Such right, however, is not automatic and must be exercised by making a specific request at the appropriate stage of the proceedings;

(iii) Ordinarily, such request must be made in the written statement or, at the latest, before the proceedings have substantially progressed;

(iv) Where such a request is made, the Tribunal is bound to grant the opportunity;

(v) Conversely, in the absence of any such request, the Tribunal is under no obligation to grant such opportunity suo motu;

(vi) The underlying rationale is to ensure expeditious adjudication and to prevent prolongation of industrial disputes by belated procedural claims.

**20.** In the present case, admittedly, the petitioner management conducted a domestic enquiry into the allegations of misconduct against the respondent workman and, upon holding the charges proved, terminated his service.

The respondent workman, upon raising a dispute before the jurisdictional

Assistant Labour Commissioner, underwent conciliation proceedings which failed, whereafter the respondent filed the present case under Section 2A(2) before the learned Labour Court seeking, inter alia, reinstatement with full back wages.

Before the learned Labour Court, the management filed its written statement and adduced evidence relying upon the domestic enquiry. The learned Labour Court framed the following issues: \_

**“Upon the pleadings of the parties, the following issues were framed for trial-**

- 1. Whether, the termination of the workman from the service of the management as per order dated 02.06.2020 passed by management authority is illegal without any lawful ground and liable to be set aside?*
- 2. Whether, the workman is entitled to reinstatement in service with full back wages along with other rights or benefits of his service?*
- 3. To, what other relief/reliefs the parties are entitled to?”*

**21.** During the course of the hearing, both parties adduced oral as well as documentary evidence. Significantly, the management neither led any independent evidence on the merits of the charges nor sought adjudication of the validity of the domestic enquiry as a preliminary issue, and instead merely relied upon the domestic enquiry conducted against the workman. The management further failed to make any request whatsoever, either in the written statement or by way of any subsequent application, seeking permission to adduce evidence afresh in the event the domestic enquiry was found to be defective.

It is an admitted position that no such request was made at any stage of the proceedings. The learned Labour Court, upon conclusion of the hearing, observed that the findings and report of the Enquiry Officer were not furnished to the workman and accordingly held the enquiry to be defective and invalid.

**22.** The only contention raised before this Court is that the learned Labour Court, having found the domestic enquiry to be invalid, ought not to have straightaway directed reinstatement.

**23.** I am unable to accept the aforesaid contention in the facts and circumstances of the case. The petitioner management neither adduced evidence justifying the termination nor sought any opportunity to do so at any relevant stage. In such circumstances, the learned Labour Court cannot be faulted for proceeding to decide the matter on the basis of the available material.

**24.** Accordingly, I find no illegality or error in the impugned award directing reinstatement upon holding the domestic enquiry invalid. The writ petition is, therefore, devoid of merit.

**25.** Resultantly, the writ petition stands dismissed.

**26.** No order as to cost.

**27.** Return the TCR.

**JUDGE**

**Comparing Assistant**