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UNRAVELLING 'LOSS OF CONFIDENCE'- AN IN-DEPTH ANALYSIS OF RUDRESHA V. MANAGEMENT OF M/S TVS MOTOR COMPANY

By Mayank Khichar¹

Case Name: *Rudresha v. Management of M/s TVS Motor Company*²

Court: *High Court of Karnataka*

Case: *Writ Petition No. 52668 of 2014 (L-RES) c/w Writ Petition No. 37496 of 2014 (L-RES)*

Petitioner: *Rudresha, an ex-serviceman and former security guard employed by M/s TVS Motor Company*

Respondent: *Management of M/s TVS Motor Company*

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² LiveLaw News Network, 'Employer Loss of Confidence in Workman No Ground For Termination When Objective Set of Facts Not Proved: Karnataka HC' | LiveLaw | (India, 17 March 2022) <<https://www.livelaw.in/high-court/karnataka-high-court/karnataka-high-court-employer-loss-of-confidence-in-workman-employee-termination-labor-court-objective-set-of-facts-227152>> accessed 4 May 2023.

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I. ABSTRACT

The case comment provides a detailed analysis of the legal implications and consequences of the court's decision. It examines the arguments presented by the TVS Motor Company and the workman, Rudresha, and evaluates their strengths and weaknesses. The analysis also considers alternative viewpoints and approaches that could have been considered by the court.

Furthermore, the case comment discusses the key issues raised in the case, including negligence on the part of Rudresha and his alleged insubordination towards superior officers. The analysis delves into the principles of natural justice, the significance of a fair domestic enquiry, the requirement for specific and supported charges, and the proportionality of the disciplinary action imposed.

To support the analysis, relevant precedents and case laws are referenced, highlighting the interpretation of "loss of confidence" as a ground for termination. The case comment critically evaluates the strengths and weaknesses of both sides and proposes alternative viewpoints that could have been considered by the court.

The novelty of this case comment lies in its comprehensive analysis of the recent judgement, exploring its legal implications and offering alternative perspectives beyond existing literature. The practical utility of this submission lies in its guidance for employers and employees facing termination based on loss of confidence, ensuring adherence to principles of natural justice and promoting fair and objective decision-making.

Keywords: Termination of Employment, Loss of Confidence, Natural Justice, Domestic Enquiry, Proportionality, Case Analysis.

II. INTRODUCTION

The Karnataka High Court's recent judgement emphasises the significance of objectively considering facts when determining the termination of employment based on the ground of loss of confidence in a workman. The court emphasises the need for a thorough investigation into the circumstances surrounding the alleged loss of confidence, as well as the importance of adhering to the principles of natural justice during the proceedings.

To understand the recent judgement, it is pertinent to note that in employment law, termination of employment based on loss of confidence refers to situations where an employer claims to have lost trust or faith in an employee's ability to perform their duties effectively. This ground for termination is subjective in nature and requires careful consideration to avoid potential unfairness or wrongful dismissal. The Karnataka High Court's judgement highlights the need for objectivity when assessing claims of loss of confidence. It suggests that employers must conduct a detailed inquiry into the circumstances leading to the alleged loss of confidence before taking any action. This implies that mere subjective perception or personal opinions should not be the sole basis for terminating an employee's contract.

Furthermore, the court emphasises the importance of adhering to the principles of natural justice during the inquiry. Natural justice entails providing the affected employee with an opportunity to present their case, allowing them to know the allegations against them, and offering a fair and unbiased hearing. These principles ensure procedural fairness and prevent arbitrary decisions that could lead to unjust terminations.

This case comment critically analyses the judgement by examining its legal implications and potential consequences. It aims to provide an in-depth assessment of the court's decision, highlighting its strengths and weaknesses from a legal standpoint. Additionally, the case comment offers alternative viewpoints based on existing laws or legal precedents, presenting different approaches or interpretations that could have been considered by the court.

III. SUMMARY OF FACTS:

- Rudresha, an ex-serviceman, joined M/s TVS Motor Company as a security guard on April 22, 1999.
- A complaint was filed against Rudresha on August 14, 2006, alleging a lack of respect towards a security officer in the company's canteen.
- On August 16, 2006, Rudresha allowed a truck to pass through the main gate without properly checking it, which resulted in an extra vehicle being transported undetected.
- The company issued show cause notices to Rudresha regarding both incidents, and he provided replies denying the allegations.
- A single domestic enquiry was conducted, finding Rudresha guilty of the charges, leading to a second show cause notice and subsequent dismissal by the disciplinary authority.
- The Labour Court set aside the punishment of dismissal and imposed the punishment of withholding two increments with cumulative effect, along with awarding 25% backwages authority, i.e., dismissal of the petitioner.

In India, labour laws provide certain rights and protections to employees, including the right to a fair and just treatment during disciplinary proceedings and termination:

1. **Domestic Enquiry:** The management of TVS Motor Company initiated a domestic enquiry to investigate the accusations against Rudresha. This is a common practice in employment situations where the employer conducts an internal investigation to establish facts and determine appropriate disciplinary action. The domestic enquiry should adhere to the principles of natural justice, including the right to be heard, the right to present evidence, and the right to a fair and impartial decision-maker.
2. **Charges and Findings:** The Enquiry Officer found Rudresha guilty of not saluting a Security Officer and allowing a truck to pass without proper inspection. It is essential that charges levelled against an employee are specific, clear, and supported by evidence. The Enquiry Officer's findings should be based on a fair assessment of the evidence presented during the enquiry.
3. **Disciplinary Action:** Based on the findings of the domestic enquiry, the Disciplinary Authority decided to dismiss Rudresha from service. Dismissal is a severe form of

disciplinary action that effectively terminates the employment relationship. However, the imposition of such a penalty should be in accordance with the principles of natural justice, and the severity of the punishment should be proportionate to the offence committed.

4. ***Intervention by the Labour Court:*** After being dismissed, Rudresha approached the Labour Court seeking redress. The Labour Court reviewed the case and set aside the punishment of dismissal. Instead, the Court opted to impose the punishment of withholding two increments with cumulative effect and awarding 25% backwages. The Court's decision indicates that it found the punishment of dismissal to be excessive and instead chose a lesser penalty.
5. ***Withholding of Increments and Backwages:*** The Labour Court's decision to withhold two increments with cumulative effect means that Rudresha's salary would not be increased for a certain period, and the increments would have a cumulative impact on his future salary. Additionally, awarding 25% backwages means that Rudresha would receive compensation equivalent to 25% of the wages he would have earned during the period of his dismissal.

IV. ISSUES:

The case presents two key issues:

- 1) Negligence on part of Rudresha, in allowing the extra vehicle to pass through the main gate, and
- 2) Rudresha's alleged insubordination towards superior officers. The court needs to determine whether the punishment imposed by the disciplinary authority is justified or if the Labour Court's modification of the punishment is appropriate.

V. ANALYSIS OF ARGUMENTS:

A. Arguments Presented by TVS Motor Company:

TVS Motor Company argued that Rudresha's negligence in allowing an extra vehicle to pass through the main gate constituted a serious breach of his duty as a security guard. They contended that his actions resulted in a loss to the company and eroded their confidence in his abilities. TVS Motor Company emphasized the need for discipline among security guards and asserted that Rudresha's dismissal was a proportionate response to his gross negligence. They further claimed that Rudresha's alleged misconduct towards his superiors demonstrated a lack of respect and insubordination, reinforcing their decision to terminate his employment.

B. Analysis of TVS Motor Company's Arguments:

While TVS Motor Company raises valid concerns regarding Rudresha's negligence and alleged misconduct, their argument fails to sufficiently establish that dismissal was the only appropriate course of action. The burden lies on the employer to demonstrate that the punishment imposed was just and proportionate. In this case, the Labour Court had already found that the punishment of dismissal was excessive, and instead imposed a lesser penalty. TVS Motor Company's contention that reinstating Rudresha would undermine discipline among security guards is speculative and lacks concrete evidence.

C. Arguments Presented by Rudresha:

Rudresha argued that the punishment of dismissal was excessive, considering his otherwise unblemished service record and the absence of any previous disciplinary issues. He asserted that the penalty imposed by the Labour Court, i.e., withholding two increments with cumulative effect and awarding 25% backwages, was appropriate and fair. Rudresha claimed that the allegations against him were exaggerated and that he had not received a fair opportunity to present his case during the domestic enquiry.

D. Analysis of Rudresha's Arguments:

Rudresha's contentions are supported by the Labour Court's decision, which deemed the punishment of dismissal to be disproportionate. The Labour Court's role is to assess the evidence presented and determine an appropriate penalty based on the principles of natural justice. Given Rudresha's service record and the absence of previous disciplinary issues, the penalty imposed by the Labour Court appears to strike a balance between addressing the alleged misconduct and considering mitigating factors.

VI. CRITICAL EVALUATION:***A. Negligence in Allowing Unauthorized Vehicle Transportation:***

The respondent argues that the petitioner, as a security guard responsible for verifying vehicles at the main gate, neglected his duty by allowing an extra vehicle to pass through without proper inspection. The respondent asserts that this negligence resulted in financial loss to the company. The petitioner's defense regarding the actions of others involved in the loading process is deemed insufficient, as the primary responsibility for checking the truck lies with the security guard.

B. Loss of Confidence and Gross Misconduct:

The respondent contends that the petitioner's negligence and subsequent misconduct towards his superiors warranted the punishment of dismissal. The respondent argues that the security guard's role is vital for maintaining discipline and protecting the company's interests. The petitioner's insubordination and failure to show respect to superiors undermine the entire security infrastructure.

C. Evaluation of the Labour Court's Decision:

The respondent challenges the labour court's decision to set aside the punishment of dismissal, arguing that the court should have upheld the disciplinary authority's decision. The respondent emphasizes that the labour court's findings did not indicate any perversity in the domestic inquiry and asserts that the punishment imposed was proportionate to the petitioner's misconduct.

D. Reinstatement and Full Backwages:

The petitioner seeks reinstatement with full consequential benefits, including full back wages. The petitioner contends that the punishment of withholding two increments and denial of full back wages are unwarranted. The petitioner argues that the labour court should have considered the ex-serviceman's background and service record as mitigating factors.

E. Proportionality of Punishment:

Determining the proportionality of the punishment imposed is crucial in this case. While the employer argues that dismissal was justified, it is essential to consider whether other disciplinary actions short of termination could have adequately addressed the workman's alleged misconduct.

The Labour Court's decision to set aside the dismissal and instead impose the punishment of withholding increments with cumulative effect requires analysis. The court must consider whether this punishment adequately addresses the workman's actions and acts as a deterrent without unduly jeopardizing his livelihood.

VII. PRECEDENTS AND CASE LAWS:

To further strengthen the analysis, it is important to consider relevant case laws and landmark judgments. The following cases provide insight into the interpretation of "loss of confidence" as a ground for termination:

Bharat Forge Co. Ltd. v. Uttam Manohar Nakate³: The Supreme Court held that a decision based on "loss of confidence" must be supported by material on record and be fair, just, and reasonable.

Rajasthan State Road Transport Corporation v. Smt. Kailash Devi⁴: The court emphasized that the employer's satisfaction about an employee's ability should be based on a reasonable and genuine assessment of the employee's performance.

Indian Airlines Ltd. v. Prabha D. Kanan⁵: The court held that a decision based on "loss of confidence" should not be arbitrary or vindictive, and must be supported by cogent material. Moreover loss of confidence cannot be invoked without proper evidence and a fair opportunity for the employee to present their case. The court's reliance on such precedents strengthens the credibility of its decision and ensures consistency in legal interpretation.

To support its decision, the Karnataka High Court referred to various relevant case laws and landmark judgments.

Another judgement ***L. Michael vs. M/s. Johnson Pumps Limited***⁶, the Supreme Court held that loss of confidence cannot be used as a ground for dismissal if it is a mere pretext to cover up the inability to establish charges through a proper enquiry. The court emphasized that loss of confidence cannot subvert the security of tenure guaranteed by industrial jurisprudence.

Applying the case law to the present scenario, it is crucial to determine whether the punishment of dismissal and denial of full back wages are based on a genuine loss of confidence or a pretext to cover up the employer's inability to establish charges against Rudresha through a fair enquiry and the case of ***T.S. Srinivasan v. Commissioner of Income-Tax***⁷, where the Supreme Court held that subjective satisfaction must be based on objective facts and cannot be based on mere suspicion or whims and fancies of the employer.

However, the judgment leaves certain issues open to interpretation and raises certain concerns. Firstly, the court does not provide a clear definition of what constitutes objective consideration of

³ Bharat Forge Co. Ltd vs Uttam Manohar Nakate, (2005) 2 SCC 489.

⁴ Rajasthan State Road Transport Corporation v. Smt. Kailash Devi, (1997).

⁵ Indian Airlines Ltd v. Prabha D. Kanan, (2006) 11 SCC 518.

⁶ L. Michael & Anr vs M/S. Johnston Pumps India Ltd, (1975) 3 SCR 489.

⁷ T. S. Srinivasan vs Commissioner of Income Tax, (1966) 2 SCR 755.

facts. It is possible that this lack of clarity may lead to different interpretations by different courts, which may lead to inconsistency in judgments.

Secondly, the court does not provide any guidelines as to what constitutes cogent reasons for loss of confidence. The absence of clear guidelines may lead to arbitrary decisions by the employer and a lack of uniformity in judgments. The court could have provided some guidance on what constitutes cogent reasons based on the facts of the case.

Thirdly, the court does not address the issue of whether the employer must show that the loss of confidence is irreparable or whether it is sufficient to show that there is a reasonable apprehension that the workman may act against the interests of the employer. This issue has been dealt with in various judgments, such as the case of *Divisional Controller, KSRTC v. M.G. Vittal Rao*⁸, where the Supreme Court held that the employer must show that the loss of confidence is irreparable and that there is no scope for improvement in the workman's conduct.

VIII. STRENGTHS AND WEAKNESSES OF BOTH SIDES:

A. Strengths of the Petitioner's Case:

Ex-Serviceman Status: The petitioner's status as an ex-serviceman and his prior service in the Army, including combat duty, could be seen as factors in his favour. It may elicit sympathy and consideration from the court while assessing the allegations against him and the appropriate punishment.

B. Weaknesses of the Petitioner's Case:

Negligence Allegations: The petitioner is accused of negligence in performing his duties as a security guard, particularly in allowing a truck to pass without proper inspection, resulting in an extra vehicle being transported without authorization. This negligence could be a significant weakness in the petitioner's case and may undermine his claim for reinstatement.

C. Strengths of the Management's Case:

Gross Negligence: The management argues that the petitioner's negligence caused the unauthorized transportation of an extra vehicle, resulting in potential financial loss for the

⁸ Divisional Controller, KSRTC v. M.G. Vittal Rao, (2011) 14 SCC 706.

employer. The allegation of gross negligence may support the severity of the punishment imposed by the Disciplinary Authority.

D. Weaknesses of the Management's Case:

Disproportionate Punishment: The Labour Court set aside the punishment of dismissal imposed by the Disciplinary Authority and substituted it with the punishment of withholding two increments with cumulative effect. The management's argument that dismissal was proportionate to the offense may be weakened by the Labour Court's decision, which suggests that the punishment was too harsh.

IX. ALTERNATIVE VIEWPOINTS:

1. ***Reinstatement with Reduced Punishment:*** Instead of dismissing the petitioner from service, the court could consider an alternative approach by reinstating him with a reduced punishment. This could involve a lesser penalty that adequately addresses the negligence while taking into account the petitioner's past service and conduct.
2. ***Compensation in lieu of Reinstatement:*** In cases where reinstatement is not feasible or deemed appropriate, the court could consider awarding compensation to the petitioner in lieu of reinstatement. This approach would acknowledge any wrongful termination while recognizing practical constraints on reinstatement.
3. ***Fairness in Comparison:*** The management's argument that other employees involved in the incident were not penalized could be examined more closely. If the petitioner's punishment appears disproportionate compared to others' involvement, it may raise questions of fairness and potential discrimination.
4. ***Judicial Review of Disciplinary Proceedings:*** The court could assess the disciplinary proceedings followed by the employer, ensuring they were conducted fairly and in adherence to the principles of natural justice. If any procedural irregularities or biases are identified, they could impact the validity of the punishment imposed.

X. CONCLUSION:

The Karnataka High Court's judgement in this case emphasizes the importance of objectively considering facts and adhering to the principles of natural justice when determining termination

based on loss of confidence in an employee. The court rightly highlights the need for a thorough investigation into the circumstances surrounding the alleged loss of confidence and the requirement of concrete evidence to support such claims.

The court's decision to set aside the punishment of dismissal and impose a lesser penalty demonstrates a balanced approach, taking into account the employee's service record and the absence of previous disciplinary issues. This decision aligns with the principles of proportionality and fairness in employment law.

However, certain aspects of the judgement could benefit from further clarity. The court should have provided explicit guidelines on what constitutes objective consideration of facts and cogent reasons for loss of confidence to ensure consistency in future judgments. Additionally, addressing the issue of irreparable loss of confidence or reasonable apprehension would have provided further clarity on the threshold for termination based on loss of confidence.

Alternative viewpoints, such as considering reinstatement with reduced punishment or awarding compensation in lieu of reinstatement, could have been explored by the court. These approaches would have provided additional options to strike a balance between addressing the alleged misconduct and protecting the employee's livelihood.

In conclusion, the Karnataka High Court's judgement in this case serves as a reminder to employers to conduct fair and thorough investigations when considering termination based on loss of confidence. It underscores the significance of procedural fairness, proportionality, and objective assessment of evidence in such cases.