



W.P(MD)Nos.1317 of 2021 & 18465 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.1317 of 2021 & 18465 of 2020

and

W.M.P.(MD)No.15465 of 2020

In W.P.(MD)No.1317 of 2021

R.Sankaran

... Petitioner

Vs.

1.The President,
YT 54, Tiruchirappalli,
Cooperative Printing Works Ltd.,
Thuvakudi,
Tiruchirappalli.

2.The Joint Registrar,
Cooperative Societies,
Tiruchirappalli Region,
Tiruchirappalli.

3.The Deputy Registrar,
Cooperative Societies,
Tiruchirappalli Circle,
Tiruchirappalli.

4.The Deputy Commissioner of Labour,
Tamil Nadu Shops & Establishment Act,
Tiruchirappalli.

... Respondents



W.P(MD)Nos.1317 of 2021 & 18465 of 2020

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the fourth respondent relating to the order passed in TNSE No.1/2017, dated 18.05.2020 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.M.Sridharan for R1

: Mr.K.S.Selvaganesan
Additional Government Pleader for R2 to R4

In W.P.(MD)No.18465 of 2020

The President,
YT 54, Tiruchirappalli,
Cooperative Printing Works Ltd.,
Thuvakudi,
Tiruchirappalli.

... Petitioner

Vs.

1.R.Sankaran

2.The Joint Registrar,
Cooperative Societies,
Tiruchirappalli Region,
Tiruchirappalli.

3.The Deputy Registrar,
Cooperative Societies,
Tiruchirappalli Circle,
Tiruchirappalli.

4.The Deputy Commissioner of Labour,
Tamil Nadu Shops & Establishment Act,



W.P(MD)Nos.1317 of 2021 & 18465 of 2020

Tiruchirappalli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining the impugned order in TNS & EA.No.1 of 2017, dated 18.05.2020 passed by the Deputy Commissioner of Labour, Trichy and quash the same.

For Petitioner : Mr.M.Sridharan

For Respondents : Mr.V.O.S.Kalaiselvam for R1

: Mr.K.S.Selvaganesan
Additional Government Pleader for R2 to R4

COMMON ORDER

Heard the learned counsel on either side.

2. Challenge in both the writ petitions is to the order dated 18.05.2020 passed by the appellate authority under Tamil Nadu Shops & Establishment Act, 1947 in TNSE No.1 of 2017. Thiru.R.Sankaran was working as binder in Tiruchirappalli District Co-operative Printing Works Y.T.54. He joined the said society as binder on 09.01.1989. He was made as Manager (in-charge) later. He came to be suspended on 17.12.2015. The charge memo was issued on 30.07.2016. Enquiry was held and vide order dated 16.03.2017, the petitioner was dismissed from service. Questioning the same, the petitioner filed appeal



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in TNSE No.1 of 2017 under Tamil Nadu Shops and Establishment Act, 1947 before the Deputy Commissioner of Labour, Tiruchirappalli. The appeal was disposed of on 18.05.2020. The appellate authority held that there was justification in dismissing the petitioner from service. The order of dismissal was confirmed. However, a sum of Rs.2,00,000/- was awarded as compensation. Thus, an order that was not agreeable to both the parties was passed. Hence, the employee as well as the management filed these writ petitions.

3. The learned counsel on either side reiterated the stand projected in the respective affidavits filed in support of these writ petitions. Though as many as four charges have been framed, in essence, the charge is that printing and binding works entrusted to Trichirappalli District Co-operative Printing Works limited were diverted to a private entity by name Rathna Offset Printers. The dues payable to Rathna Offset Printers were paid and in the process, the petitioner earned commission amount and the Tiruchirappalli District Co-operative Printing Works limited suffered corresponding loss. The Registrar of the Cooperative Society, Chepauk, Chennai had issued circular bearing Na.Ka.No.27308/2008 கிக2 dated 12.12.2008 mandating that the printing and binding works of Cooperative Societies should be carried out by a cooperative



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society alone and that it cannot be entrusted to private entities.

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4. The specific allegation in the charge against the petitioner is that as Manager of the society, he should have got the works done by Tiruchirappalli District Co-operative Printing Works limited itself and that he should not have outsourced it in favour of a private body. The defence of the petitioner appears to be that during the relevant time, the Tiruchirappalli society had received excess work orders and that due to shortage of man-power, they had to outsource. I went through the contents of the said circular. The circular itself permitted outsourcing in certain cases. But then, outsourcing can be done only in favour of another cooperative society and that permission should have been obtained. The petitioner was only an in-charge Manager. Obviously, only with the permission of the managing director, outsourcing had been done. In fact, resolution of the society was also passed. It is seen that the outsourcing was done by the Tiruchirappalli society in favour of their counterpart in Dindigul which is also a cooperative society.

5. I repeatedly queried the learned counsel appearing for the Management as well as the instructing official as to whether there is any document indicating that the petitioner herein namely Thiru.R.Sankaran directly outsourced the work



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orders in favour of the private body namely Rathna Offset Printers. No material has been placed before me indicating such outsourcing. The impugned order passed by the appellate authority is also silent. No document has been marked in this regard. If the Dindigul District Cooperative Printing Works Limited had outsourced the work to Rathna Offset Printers, the petitioner cannot be blamed therefor. If at all, it is only those who were in-charge of the Dindigul District Cooperative Printing Works Limited who should have been proceeded against for having breached the aforesaid circular dated 12.12.2008 issued by the Registrar of Cooperative Societies. The charge against the petitioner is based on zero evidence.

6. In this view of the matter, the impugned order passed by the appellate authority is set aside. The petitioner was suspended from service on 17.12.2015. He reached the age of superannuation on 16.03.2017. This period shall be treated as one of duty for all purposes. Thiru.R.Shankaran will be entitled to all the consequential benefits. He is deemed to have regularly retired on 16.03.2017. The management is directed to settle the retirement benefits of Thiru.R.Shankaran as expeditiously as possible.



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7. W.P.(MD)No.1317 of 2021 is allowed and W.P.(MD)No. 18465 of 2020

is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.04.2023

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Joint Registrar,
Cooperative Societies,
Tiruchirappalli Region,
Tiruchirappalli.
- 2.The Deputy Registrar,
Cooperative Societies,
Tiruchirappalli Circle,
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G.R.SWAMINATHAN, J.



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