



W.P.No.14885 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 19.12.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.14885 of 2010
and W.M.P.No.24495 of 2010

N.Ranganathan

.. **Petitioner**

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The State of Tamil Nadu,
represented by its Secretary,
Agriculture Department,
Fort St.George,
Chennai – 600 009.

3.The Chairman & the Managing
Director, Tamil Nadu Co-op.
Oil Seeds Growers Federation
(now under liquidation) rep.by the
Official Liquidator, TANCOF,
Chennai.

.. **Respondents**



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Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling upon the production of records relating to the impugned award dated 18.06.2007 passed in I.D.No.114 of 1998 by the 1st respondent herein, set aside the same and order for petitioner's reinstatement with back wages and continuity of service with all other attendant benefits. (Prayer amended as per the order of this Court dated 24.08.2021)

For the Petitioner	: Dr.S.Vidya for Mr.R.S.Vaideeswaran
For the Respondents	: For R1 – Labour Court Mr.K.Surendran Addl. Government Pleader for R2 Mr.P.Anbarasan for R3

ORDER

This Writ Petition is filed aggrieved by the award passed by the Labour Court, Cuddalore, in I.D.No.114 of 1998 dated 18.06.2007. By the said award, the claim petition filed by the Workman under Section 2 (A) (2) of the Industrial Disputes Act (In short 'the ID Act'), to reinstate him with



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back wages and continuity of service was rejected by the Labour Court.

Against which, the Workman is before this Court.

2. The brief facts leading to the filing of the Writ Petition are that a charge memorandum was issued to the Workman on 14.03.1994 containing a charge that he temporarily misappropriated a sum of Rs.50,000/- and upon being detected, he repaid the amount, thus, indulged in the misdemeanour of criminal misappropriation of Rs.50,000/- to defraud the funds of the Management, viz., Tamil Nadu Cooperative Oil Seeds Growers Federation (TANCOF). The petitioner submitted his explanation on 25.03.1994. The enquiry officer after enquiry found that the charges as proven and therefore, a second show cause notice was issued on 01.10.1994. The petitioner submitted his additional explanation on 14.10.1994 and the punishment was imposed by an order dated 05.12.1994, dismissing the petitioner from service. Aggrieved by this, the petitioner raised a dispute with a delay of 4 years and the conciliation failing, filed a claim petition and the same was taken on file as I.D.No.114 of 1998.



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3. In the Claim Petition, the Workman impugned the fairness of the enquiry including that the enquiry report was not enclosed along with the show cause notice. The Workman also explained the facts relating to the merits of the charges and submitted that except for making certain erroneous entries, he never misappropriated the amount and the amount was very much available and only because of the instructions of the superior officers, the amount repaid and the entire amount was not paid only by him the amount was pooled in by all the persons who are connected to the incident. The claim was resisted by filing a written statement.

4. In the written statement, the nature of malpractice committed by the petitioner was pleaded and it was also mentioned that the Management should be given an opportunity if the Court finds that the domestic enquiry was not fair and proper. The Labour Court thereafter took up the enquiry.

5. The Labour Court considered the case of the parties and a



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preliminary award was passed holding that the enquiry was not fair and proper. Further, an opportunity was granted to the parties to let in evidence and the Workman examined himself as W.W.1 and Exhibit W.1 was marked. On behalf of the Management, one D.Premkumar was examined as L.W.1 and Exhibits M.1 to M.8 were marked.

6. The Labour Court relied solely on the explanation submitted by the workman, taking a statement from his explanation where he admitted the inadvertent mistake. After Rs. 50,000/- had been paid, the court held that the workman was guilty. Considering the above, the Labour Court rejected the Claim Petition. Aggrieved by which, the Workman is before this Court.

7. Heard, *Dr. S. Vidya*, the learned counsel for the Workman; *Mr. K. Surendran*, learned Additional Government Pleader for 2nd respondent and *Mr. P. Anbarasan*, learned counsel for the Management.

8. At the outset, the learned counsel appearing on behalf of the



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Workman would rely upon the Judgment of this Court in W.P.No.6985 of 2002 dated 08.02.2006 concerning the other delinquent – P.Pandian. While the Labour Court dismissed the Claim Petition of the petitioner – Workman, in respect of the other delinquent, who is also jointly accused of the same charges, allowed the Claim Petition and ordered reinstatement with back wages. The Management challenged the same and by a Judgment dated 08.02.2006, the Writ Petition was also dismissed and the Management was directed to reinstate the Workman. Paragraphs Nos.7 and 8 of the order are relevant and are extracted hereunder:-

“7. The said contention was resisted by the learned counsel for the 2nd respondent-workman stating that all the documents have been carefully dealt with by the 1st respondent-labour court and the impugned award of reinstatement has been passed. It is the specific case of the 2nd respondent before the labour court that he was in no way responsible for the amount alleged to have been misappropriated. According to him , the petitioner-Management failed to prove that on 13.4.1991 one Narayanasamy had collected and deposited the amount into the bank. Moreover, it is the specific case of the 2nd respondent that the 2nd respondent acted only as per the order of his superior authority and had raised his objection regarding the absence of the signature of the said Narayanasamy in the transfer. As such , it is stated that when the 2nd respondent had denied his involvement and the charge of falsification, it is the bounden duty of the petitioner-management to produce the documents like the challan, chitta register, the receipt book and the connected records to prove how the 2nd respondent was



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involved in the misappropriation. But it is seen in the impugned award of the 1st respondent-labour court that despite opportunity having been provided to the petitioner-management to prove the alleged misconduct of the 2nd respondent-workman by submitting all the relevant records, the petitioner-management has failed to produce the same, thereby the alleged misconduct has not been proved by the management before the labour court. Therefore, after analysing the materials available before it, the 1st respondent-labour court took the following view-

"12. To sum up, in view of the above discussions , it is evident from the records , that the respondent has not established the charges levelled against the petitioner, though an opportunity was given by the Court as per the order of this court dated 24.9.2001. Therefore, under such circumstances, the petitioner is entitled for the relief as claimed by him.

13. In the result, an award is passed to the effect that the petitioner is entitled for reinstatement of service after setting aside the order of termination along with back-wages and continuity of service."

8. In view of the above stated facts, I am of the view that the impugned award passed by the 1st respondent-labour court is just and does not warrant interference by this court. The charge of misappropriation to the extent of Rs.50 ,000/- could not be sustained before the labour court and the order of punishment imposed by the management becomes bad. Moreover , it is reported that the amount of Rs.50 ,000/-which was the issue of the disciplinary enquiry has been credited and taken into account by the management. Thus, the management has not substantiated the same before the labour court despite adequate opportunity having been given to them. Therefore, the order of dismissal passed by the petitioner-management deserves to be set aside and it has been rightly done so by the labour court."



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9. When this Court enquired as to whether the same order can be followed in respect of the petitioner also, the learned counsel for the Management representing the Liquidator would contend that the case of the petitioner would be different as he is the concerned Cashier, who has misappropriated the amount and repaid the same. He would submit that therefore, this Court has to consider the charge against the petitioner and since the charge is proved beyond doubt, the benefit extended to the other Workman cannot be extended in this case and prayed that the Writ Petition be dismissed.

10. Given the said argument, this Court heard both the learned counsel in detail regarding the charges.

11. At the outset, though at the first blush, it is easily alleged that the Workman misappropriated a sum of Rs.50,000/- to defraud, the following is the allegation in detail which is made against the Workman:-

“Thiru.N.Narayanasamy, Extension Assistant,
Villupuram working under the control of Area Manager,



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Vridhachalam has collected a sum of Rs.50,000/- on 13.04.1991 from the Villupuram Taluk Co-operative Marketing Society being the amount due to the Area Office, Vridhachalam. The entire amount was remitted by him in the Villupuram Branch of Sough Arcot District Co-op. Central Bank to the credit of Area Office, Vridhachalam and the remittance Challan was handed over to Area Office, Vridhachalam for necessary transaction in the books of Accounts of the said Area Office. But on the same i.e. on 13.4.1991, the above remittance was noted in the Rough Cash Chitta as if cash of Rs.50,000/- was remitted by the Area Office, Vridhachalam at the South Arcot District Co-op. Central Bank, Villupuram Branch thereby reducing the cash balance of Rs.50,000/- on 13.04.1991. Consequently, the closing cash balance on 13.04.1991 should have been Rs.3,99,573.55 as against the actual closing cash balance of Rs.3,49,573.55 as recorded by the Cashier Thiru.N.Ranganathan. Thus, it is evident that he has misappropriated the funds of TANCOF to the tune of Rs.50,000/-”

12. A careful reading of the same, does not make out any meaning at all. The allegations are highly confusing and do not make any sense. In that view of the matter, this Court went to the other documents to understand what exactly was done by the petitioner. In the written statement filed to the Claim Petition, relevant statements were made in paragraphs Nos.10 to 14 which read as under:-

“10. On 17.12.1993 the Assistant Director of Co-



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operative Audit, Internal Audit, reported that he visited the Area Office, Vridhachalam on 13.10.1993 to check the Books of Accounts of that Office and found that on 13.04.1991 Mr. R. Narayanaswami, Extension Assistant, Villupuram under the control of the Area Manager, Vridhachalam collected a sum of Rs.50,000/- due to the Area Office, Vridhachalam from the Villupuram Taluk Co-operative Marketing Society and remitted it into the Villupuram Branch of the S.A. Dist.Co-op. Central Bank to the credit of the Area Officer, Vridhachalam and handed over the remittance challan to the area Office, Vridhachalam.

11. The Report added that this transaction should have been recorded in the books of Accounts of Area Office, Vridhachalam by giving credit to "Sundry Debtors" and debiting the Central Co-operative Bank, Villupuram.

12. Instead this amount of Rs.50,000/- vouched by the Challan, was on the same day noted by the Petitioner in the rough Cash Book maintained by him as Cashier, as if the amount had been remitted by the Area Office, Vridhachalam to the Bank thereby reducing the Closing Balance on 13.04.1991 to Rs.3,49,573.55 as against the actual balance of Rs.3,99,573.55. The above transaction was recorded also in the Day Book on 13.04.1991.

13. The Report stated further in consequence the amount of Rs.50,000/- remained as out-standing balance in the name of Villupuram Taluk Co-operative Marketing Society under "Sundry Debtors". In order to set right this balance. Cash Receipt No.672 for Rs.50,000/- was prepared on 30.03.1992 as if cash was collected from Villupuram TCMS and the receipt was signed by the Petitioner and the Area Manager, without the remitter's signature.

14. The effect of this was increasing the Cash Balance to the extent of Rs.50,000/- on 30.03.1992. And in order to bring down the cash balance on that day, an advance receipt was prepared in the name of Thiru. R. Narayanaswami, Extension Assistant, Villupuram sanctioning an advance of Rs. 50,000/- for procurement purposes. This document did not bear the signature of



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Thiru. R. Narayanaswami. Despite this the said document was treated as a valid voucher and was entered in the day book as payment in Voucher No.1389B.”

13. As a matter of fact, the version which is given in Tamil in the enquiry report reads as under:-

“திரு. ஆர்.நாராயணசாமி, விரிவாக்க உதவியாளர், விழுப்புரம் தனது பணி சம்மந்தமாக வதூல் செய்த தொகை ரூ.50,000/-ஐ 13.4.1991 அன்று விழுப்புரம் தென்னாற்காடு கூட்டுறவு மத்திய வங்கியில் செலுத்தியுள்ளார். மேற்படி தொகை டான்காப் விழுப்புரம் கணக்கில் சேர வேண்டியதாகும். மேலும் அத்தொகை விழுப்புரம் தாலுக்கா கூட்டுறவு மார்கெட்டிங் சொசைட்டியிடமிருந்து அவரால் வதூல் செய்யப்பட்டு வங்கியில் செலுத்தப்பட்டது.

மேற்படி தொகை ரூ.50,000/- செலுத்தியதற்கான செலுத்துச் சீட்டினை விருத்தாசலம் ஏரியா அலுவலகத்தில் ஒப்படைத்துள்ளார். அந்த தொகை ரூ.50,000/- விருத்தாசலம் டான்காப் அலுவலகத்தில் வரவு வைக்கப்படவில்லை. அதற்கு பதிலாக மேற்படி செலுத்துச் சீட்டினை ரூ.50,000/- செலவுக்கு ஆதாரமாகக் கொண்டு 13.4.1991 கணக்கில் குறைத்துக் காட்டப்பட்டுள்ளது. மேற்படி தொகையை டான்காப், விழுப்புரம் கணக்கில் C/A செலுத்தப்பட்டதாக குறிப்பிடப்பட்டுள்ளது. பின்னர் 30.3.92 அன்று மேற்படி கூட்டுறவு சங்கத்திடமிருந்து ரூ.50,000/- பெறப்பட்டதாக வரவு வைக்கப்பட்டுள்ளது. ஆக 30.3.92 அன்று



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அசல் கணக்கு இருப்பு தொகை ரூ.50,000/-
கூடுதலாக இருக்கவேண்டும் என்பதால்
அதனை சரிசெய்ய திரு.ஆர்.நாராயணசாமி
விரிவாக்க அலுவலர் 30.3.92 அன்று
ரூ.50,000/- முன்பணம் கேட்டதாக விண்ணப்பம்
தயாரிக்கப்பட்டு 30.3.92 அன்று தொகை
கழிக்கப்பட்டுள்ளது. பின்னர் திரு.நாராயணசாமி,
விரிவாக்க அலுவலரிடம் மேற்படி தொகையை
திரும்ப செலுத்தக் கேட்டபோது, அவர் தான்
முன்பணமே பெறவில்லை என்று
தெரிவித்ததைத் தொடர்ந்து ரூ.50,000/-
டான்காப், விருத்தாசலம் அலுவலகத்தில்
கையாடல் செய்திருப்பது கண்டறியப்பட்டது."

14. Thus, it is not possible to easily understand what the Management is conveying by the said charge. Whether the amount was payable to the Villupuram Branch of TANCOF or Virudhachalam Branch of TANCOF was also differently given in different versions. If the amount is collected in Villupuram, belonging to Villupuram, it is not known why the challan has been handed over at Virudhachalam. There is no explanation forthcoming in respect of the same. The petitioner himself has raised the said specific plea and cross-examined the management witness also. There is no answer from the Management witness. Be that as it may, even thereafter also what



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happened and how the amount was misappropriated was very confusing. If the allegation is that instead of showing credit of Rs.50,000/-, the amount was wrongly debited, then the total difference should be Rs.1,00,000/- and not Rs.50,000/-.

15. This apart, different versions are given in the enquiry report, in the written statement and the original allegations in the charge. It is the specific case of the petitioner that except for making the erroneous entry, the cash was very much available and that should be known from the subsequent transactions and he has also given the balance outstanding on those dates. Concerning that absolutely no finding was given and no explanation was forthcoming. Only when this Court adjourned the matter specifically to get instructions and explain what exactly the charge, the learned counsel for the Liquidator would submit that given the huge efflux of time and the organisation itself was liquidated, the present-day authorities are not in a position to explain about the process. A charge of misappropriation is a quite straight forward charge. It has to be alleged that



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by way of this method, the delinquent misappropriated the amount and it has to be demonstrated. It cannot be alleged in a roundabout fashion and then if the Courts, without going into the actual charge and the evidence, cannot believe the overall statement that the petitioner misappropriated, and except for the adumbration when there are no clear-cut allegations that are made, I am afraid that the Labour Court was not right in rejecting the claim of the petitioner, even while granting relief to the other workman.

16. Even in the present award, it has to be noted that the Labour Court specifically holds that the Area Manager will also be responsible, considering the nature of the allegation. When in the case of everybody else, the charge was held to be not proved and they were ordered to be reinstated into service, I am of the view that in the present case also the findings of the domestic enquiry officer as well as the findings of the Labour Court are perverse, without even trying to understand what exactly the charge. The Labour Court merely went on certain admissions of facts in the explanation given by the petitioner.



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17. It is the specific case of the petitioner that he only made an inadvertent entry and that the amount was very much available. No finding was given with reference thereof. Therefore, if the award of the Labour Court as well as the findings of the domestic enquiry officer are perverse, this Court can interfere in the exercise of powers under Article 226 of the Constitution of India.

18. In view thereof, this Writ Petition is liable to be allowed. However, because the petitioner was 57 years of age, at the time of filing of the Writ Petition itself and because he has also superannuated in service, he has been granted the relief of reinstatement, without back wages and all the terminal benefits due to the petitioner shall also be paid. It is another thing that the petitioner will be paid as per his entitlement, as the very society has now been liquidated. With the available funds only he has to make his claim.



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19. Given the above, this Writ Petition is allowed on the following

terms:-

(i) The award of the Labour Court dated 18.06.2007 passed in I.D.No.114 of 1998 shall stand set aside;

(ii) The order of dismissal passed against the petitioner dated 05.12.1994 shall stand set aside and the petitioner is deemed to be reinstated into service till the date of his superannuation;

(iii) However, the petitioner will not be entitled to any back wages;

(iv) The petitioner was deemed to be in service till his superannuation and all his terminal benefits such as gratuity and the other benefits payable upon his superannuation shall be paid to him;

(v) Since the respondent – Society has already been liquidated and the matter is pending before the liquidator, by calculating the benefits payable to the petitioner, it has to be disbursed;

(vi) The petitioner himself shall prefer a Claim Petition and the same shall be considered by the Liquidator in accordance with law and depending on the available amount, the entitlement of the petitioner, the amount due



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and payable to him shall be disbursed to him, within twelve weeks from the date of receipt of a copy of the website uploaded copy of the order, without waiting for the certified copy of this order;

(vii) No costs. Consequently, the connected miscellaneous petition is closed.

19.12.2024

Neutral Citation : Yes

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To

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The Secretary,
State of Tamil Nadu,
Agriculture Department,
Fort St.George,
Chennai – 600 009.

3.The Chairman & the Managing
Director, Tamil Nadu Co-op.
Oil Seeds Growers Federation
(now under liquidation) rep.by the
Official Liquidator, TANCOF,

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D.BHARATHA CHAKRAVARTHY, J.

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