

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W. P.No. 25079 of 2011

C.Mohan

... Petitioner

Versus

1. The Presiding Officer,
Principal Labour Court,
Vellore.

2. The Management,
Thiruvannamalai Central Co-Operative
Bank Ltd., Gandhi Nagar,
Thiruvannamalai

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for records relating in I.D.No.109 of 2002 dated 02.6.2009 on the file of the first respondent and quash the same consequently direct the second respondent to restore the petitioner service with back wages and consequential benefits etc.

For Petitioner : Mr.P.Ganapathy

For R2 : Mr.M.S.Palaniswamy

ORDER

Heard Mr.P.Ganapathy, learned counsel appearing for the petitioner and Mr.M.S.Palaniswamy, learned counsel appearing for the second respondent Management.

2. The petitioner in this writ petition has challenged the Award of the Principal Labour Court dated 02.06.2009. The facts which are necessary for disposal of the Writ Petition are that the petitioner was employed as Cashier in the second respondent Co-operative Bank. The allegation against him was that he misappropriated a sum of Rs.70,000/- on 15.07.2000 by fabricating the records and by operating an un-operated account of a customer and after the incident came to the notice of the Management, he has remitted the amount. Based on this allegation, initially, the petitioner was placed under

suspension by order dated 18.07.2000. A charge memo was issued to the petitioner on 08.01.2001 stating that while he was working as Assistant/cashier of the second respondent bank, on 15.07.2000 withdrew a sum of Rs.70,000/- from the Savings Bank Account No.16496 held by one T.Durairaj, by creating a fabricated withdrawal slip. In the explanation given by the petitioner, he would state that he has not done any such misappropriation, but, he would set up a case as if that the Officer of the Management has directed him to put a signature in the withdrawal slip when he reported for duty on 17.07.2000, which was a Monday, and believing that it is a normal procedure, he put his signature. According to him, this is only on account of the pressure by the said officer of the Management. Further, it is stated that he has already remitted the amount and he will ensure that there will be no such complaint against him in future.

3. Though the petitioner had remitted the amount to the Account, since he had admitted his guilt, the Management has rightly chosen to conduct the domestic enquiry and in the domestic enquiry, the charges came to be proved. However, unfortunately, the petitioner did not examine any witness during the enquiry proceedings and merely reiterated the stand taken in the explanation dated 29.01.2000. The Enquiry Officer submitted a report holding that the charges were proved. The Management issued a second show cause notice on 07.06.2001, for which, the petitioner submitted his reply on 18.06.2001. From a perusal of the reply, it is evidently clear that the petitioner has admitted his guilt. Thereafter, the order of termination came to be passed, which was challenged by the petitioner by raising a dispute before the Labour Court.

4. The Labour Court, after considering the entire factual matrix, pointed out that the petitioner did not challenge the validity of the domestic enquiry, he did not lead any evidence before the domestic Enquiry Officer, he did not lead any oral evidence before the Labour Court, nor he produced any document in support of his stand. Therefore, the Labour Court rightly held that there is no perversity in the report submitted by the Enquiry Officer and proceeded to consider the factual matrix and after taking note of the stand taken by the petitioner, the Labour Court pointed out that though the petitioner says that he was threatened to make payment of the amount and he was assured that no action will be taken if he remitted the amount, he was not able to establish the said averments by producing any oral or documentary evidence. Thus, the Labour Court, after considering the entire matter, held that the petitioner is not entitled for any relief in the absence of any perversity. This court, sitting under Article 226 of the Constitution of India, will not examine the correctness of the order passed by the Labour Court as if acting as an appellate authority over the

factual finding recorded by the Labour Court. In the light of the above, the petitioner has not made out any case for interference.

5. Accordingly, this Writ petition is dismissed. No cost.

-s/d-
Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

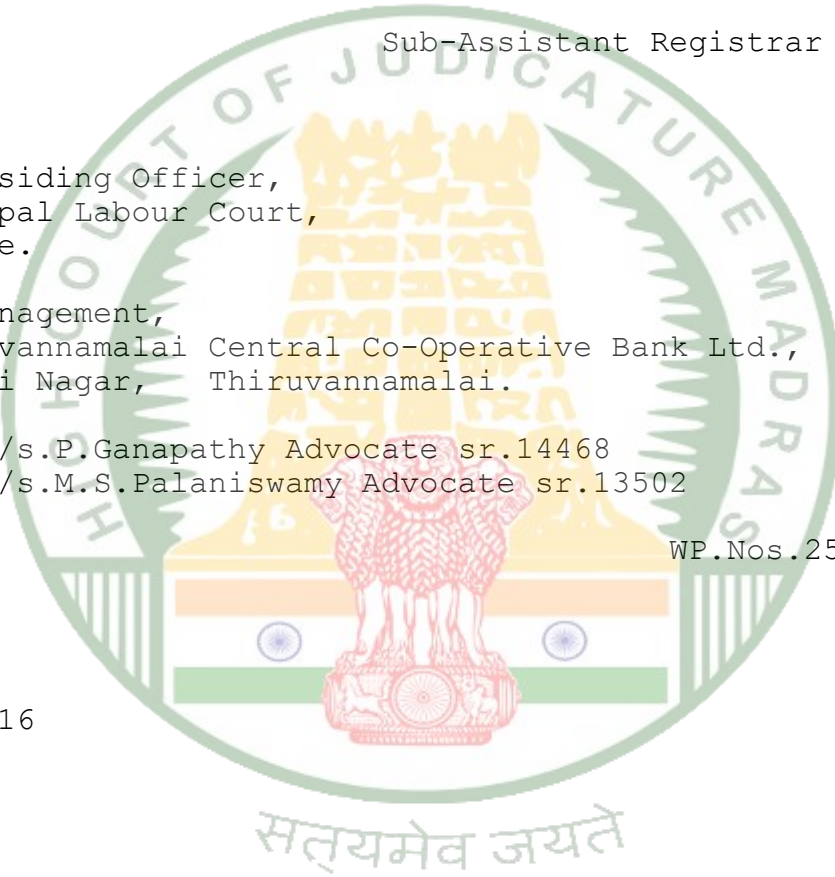
mrp/ga
To

1. The Presiding Officer,
Principal Labour Court,
Vellore.
2. The Management,
Thiruvannamalai Central Co-Operative Bank Ltd.,
Gandhi Nagar, Thiruvannamalai.

+1 cc to M/s.P.Ganapathy Advocate sr.14468
+1 cc to M/s.M.S.Palaniswamy Advocate sr.13502

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