



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.03.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (MD) No.1702 of 2013

& M.P. (MD) Nos.1 of 2013, 1 of 2014 & 1 of 2015

The Management,
A.387, Kodaikanal Co-operative Stores,
Kodaikanal - 624 101.
Dindigul District.

.. Petitioner/Respondent

Vs.

A.Kannan

.. Respondent/Petitioner

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order, dated 12.10.2012, passed in the preliminary issue in I.D.No.98 of 2000, by the Presiding Officer/District Judge, Labour Court, Tiruchirappalli.

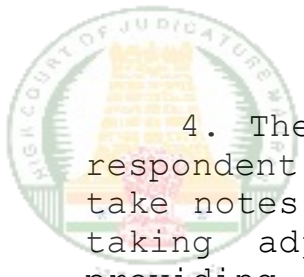
For Petitioner	: Mr.V.O.S.Kalaiselvam
For Respondent	: Mr.A.Thirumurthy
	for M/s.Victory Associates

ORDER

This Civil Revision Petition has been filed to set aside the fair and decretal order, dated 12.10.2012, passed in I.D.No.98 of 2000, by the Presiding Officer/District Judge, Labour Court, Tiruchirappalli.

2. The petitioner is the respondent and the respondent is the petitioner in I.D.No.98 of 2000. The respondent raised the said I.D., to reinstate him in service with backwages. The petitioner filed counter statement, denying various allegations made by the respondent.

3. The respondent in his claim petition, raised the issue that the domestic enquiry conducted by the petitioner, was not fair and proper. He was not furnished with documents relied on by the petitioner and without giving sufficient opportunity to pursue the documents and giving opportunity to submit his explanation, he was set *ex parte*. Based on the *ex parte* evidence, his services were terminated.



4. The learned counsel for the petitioner submitted that the respondent was given ample opportunity to pursue the documents, take notes and submit his explanation. However, the respondent was taking adjournments to drag on the proceedings. Only after providing sufficient opportunity, the respondent was set *ex parte* and stated that domestic enquiry is fair and proper.

5. The learned Presiding Officer, Labour Court, considering the facts and materials on record, held by the order dated 12.10.2012 that the domestic enquiry conducted by the petitioner was not fair and proper and not in accordance with law and hence posted the I.D., to 19.10.2012, for examining the witnesses of the petitioner. Against the order in preliminary issue, dated 12.10.2012, the present civil revision petition is filed.

6. The learned counsel for the petitioner contended that the evidence was let in and documents were marked in I.D.No.98 of 2000. After a lapse of a long time, the matter was taken up for arguments. At that time, all the documents were found to be missing. As per the directions of the Presiding Officer, fresh evidence was let in and documents were marked through witnesses. The Presiding Officer without considering the evidence let in by the petitioner and the respondent, passed the impugned order, holding that the domestic enquiry is not fair and proper. This impugned order is contrary to law. Once fresh evidence is let in by the petitioner and the respondent, domestic enquiry already conducted and defects therein were wiped out and the Labour Court has to consider the evidence let in I.D.No.98 of 2000 and pass an award on merits.

7. Per contra, the learned counsel for the respondent contended that the Presiding Officer has considered all the materials on record and has held that the domestic enquiry is not fair and proper and has given an opportunity to let in evidence and therefore, he prayed for dismissal of the civil revision petition.

8. I have heard the learned counsel appearing for the parties and perused the materials on record.

9. It is seen from the materials on record as well as the impugned order that both the petitioner and the respondent have let in oral and documentary evidence before the Labour Court. The Presiding Officer failed to consider the evidence let in before the Labour Court. In the circumstances, the impugned order is contrary to the well settled judicial pronouncements. The impugned order is therefore, set aside and the matter is remanded to Labour Court, for fresh consideration. The learned Presiding Officer, Labour Court, Trichy, is directed to consider the oral and documentary evidence let in and pass orders in I.D.No.98 of 2000 as to whether the petitioner has proved the charges levelled against the respondent and whether the non-employment of the respondent is valid and proportionate to the charges proved against the respondent or not.



10. With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

/True copy/

Sub Assistant Registrar

To

The Presiding Officer/District Judge,
Labour Court,
Tiruchirappalli.

+1cc to Mr.V.O.S.Kalaiselvam, Advocate SR.No.13836

+1cc to Mr.A.Thirumurthy, Advocate SR.No.13288

smn2

JA/DB/SAR.II/09.6.2016/3P-4C

C.R.P. (MD) No.1702 of 2013
& M.P. (MD) Nos.1 of 2013,
1 of 2014 & 1 of 2015
09.03.2016