



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.552 of 2014

The Management
Periyasolipalayam Primary Agricultural
Co-operative Credit Society Limited
Rep. by its President
Periyasolipalayam
Kabilarmalai, Paramathivelur,
Namakkal District.

... Appellant/Petitioner

-Vs-

1.The Presiding Officer,
Labour Court, Salem.

2.N.Periyasamy

... Respondents/Respondents

(Cause title accepted vide order of court dated 7.4.2014 in
M.P.No.2/2013
in WA SR.78404 of 2012)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P No.17679 of 2006 dated
19.07.2012.

Writ Petition filed under Article 226 of the Constitution of
India, praying to issue a Writ of Certiorari calling for the
records of the first respondent in I.D. No. 642 of 2000 dated
6.12.2005 and quash the same.

For Appellant : Mr.M.S.Palaniswamy

For Respondents: Mr.R.M.D.Nasrullah
for Mr.K.V.Shanmuganathan for R2



WEB COPY

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The appellant initiated proceedings against the second respondent alleging certain acts of misappropriation. The second respondent was finally dismissed from service. He raised an industrial dispute. The Labour Court, Salem, as per Award dated 6 December 2005 in I.D.No.642 of 2000 set aside the punishment and declared that enquiry was not conducted in accordance with the principles of natural justice. The writ petition filed by the appellant challenging the Award was dismissed by the Writ Court. The order is under challenge at the instance of the Management.

2. We have heard the learned counsel for the appellant and the learned counsel for the second respondent.

3. The Management initiated disciplinary proceedings against the second respondent alleging serious acts of misappropriation. There was no full fledged enquiry conducted by the appellant before imposing the punishment. When a dispute was raised, the Labour Court considered the entire materials and evidence produced by the Management. The Labour Court found that there were no materials to connect the accused with the acts of misappropriation. The Labour Court also found that evidence was not let in by the Management to prove the multiple charges framed against him. It was only under such circumstances, the Labour Court directed the Management to reinstate the second respondent with continuity of service.

4. The Labour Court directed the appellant to pay back wages to the second respondent. There was no reasoning given by the Labour Court in its conclusion that the second respondent is entitled to full back wages.

5. There was no attempt made by the learned single Judge to consider the question as to whether the second respondent is entitled to the wages for the entire period.

6. We have perused the entire materials to arrive at a conclusion as to whether the Labour Court was correct in granting full back wages. The second respondent escaped from the punishment mainly on account of technical reasons. Even then, he was given the benefit of payment of back wages for the entire period. We are therefore of the view that the direction to pay back wages should be modified.

7. The learned single Judge confirmed the order directing back wages to the second respondent. We modify the order by



directing the appellant to pay 1/3rd of the back wages instead of full back wages. The second respondent shall be given all other benefits. The retirement benefits shall be paid within a period of four weeks from the date of receipt of a copy of this judgment. The back wages shall be paid within a period of eight weeks after paying the retirement benefits. The order passed by the learned single Judge is modified to the extent indicated above.

8. The intra court appeal is allowed in part. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

svki

To

1.The Presiding Officer,
Labour Court, Salem.

+ 1 cc to Mr.M.S.Palaniswamy Advocate,SR.17444

+ 1 cc to Mr.K.V.Shanmuganathan Advocate,SR.17590

W.A No.552 of 2014

nr 17/04/2018