



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7474 of 2014

and

MP(MD)No.1 of 2014

Melur Co-operative Land Development
Bank Ltd., Rep.by its Special Officer,
(Now Melur Primary Co-operative
Agricultural and Rural Development
Bank Ltd,
Rep.by the President,
Melur, Madurai District.

... Petitioner

Vs.

1. The Deputy Commissioner of Labour,
(Appellate Authority under the Tamil
Nadu Shops & Establishments Act),
1/5 C, Rathinasamy Nadar Road,
Visalatchipuram, Madurai - 625 014.

2.V.Mani

... Respondents

Prayer : Writ Petition is filed under Article 226 of the
Constitution of India to issue a Writ of Certiorari to call for
the records of the first respondent relating to the
T.N.S.E.No.1/90, quash the order dated 06.11.2012 passed therein.

For Petitioner	: Mr.S.Seenivasagam
For Respondents	: Mr.T.Ravichandran for R2
	No appearance for R1

ORDER

The second respondent was employed in the writ petitioner's society as Supervisor. He was alleged to have committed certain serious acts of discrepancies. In this regard three charge memos were issued. The second respondent offered his explanation. Domestic enquiry was conducted. The enquiry officer while giving his findings held that while most of the charges were proved, some charges were not proved. The Special Officer of the petitioner society as the disciplinary authority while passing the order dismissing the second respondent from service specifically noted



that the punishment was given only for the proved charges.

2.The order passed by the management dismissing the second respondent from service was impugned before the first respondent. The first respondent by the impugned order dated 06.11.2012 allowed the appeal. The same is assailed in this writ petition at the instance of the management.

3.The learned counsel appearing for the management drew the attention of this Court to the reasoning underlying in the impugned order. The first respondent while setting aside the dismissal order passed by the management observed as under :

"But the management while passing the dismissal order dt.2/3/78 has not considered the charges which have not been proved in the domestic enquiry. Whenever a dismissal order is to be issued to a delinquent employee, all the charges leveled against him should have been proved. But, in this case, the enquiry officer himself gave his findings that some of the charges have not been proved."

4.Except what is found in Para No.109 in the impugned order, there is no other reason for allowing the appeal filed by the second respondent herein. But, as rightly pointed out by the learned counsel appearing for the management, the order of punishment rests only on the proved charges. The Special Officer for the petitioner society did not take note of those charges which were held to be not proved by the enquiry officer. Therefore, the order of the first respondent is clearly perverse in law.

5.In this view of the matter, the same is set aside and the matter is remitted to the first respondent to pass fresh orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order. It is needless to say that the first respondent shall hear both the management as well as the workman before passing orders afresh in accordance with law.

6.This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar



To

The Deputy Commissioner of Labour,
(Appellate Authority under the Tamil
Nadu Shops & Establishments Act),
1/5 C, Rathinasamy Nadar Road,
Visalatchipuram, Madurai - 625 014.

+1cc to Mr.S.Seenivasagam, Advocate Sr.No.51901

+1cc to Mr.T.Ravichandran, Advocate Sr.No.52112

Skm

MK/SKN RSK/SAR 2/19.06.2018/3P/4C

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and

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