



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2018

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE G.R. SWAMINATHAN**

W.P. (MD) No. 11345 of 2017

and

W.M.P (MD) No. 8732 of 2017

The Management

A.387 Kodaikanal Co-operative Stores Ltd.,

Kodaikanal,

Dindigul District

... Petitioner

Vs.

1. The Appellate Authority,
Under the Tamil Nadu Shops and
Establishment Act,
(Deputy Commissioner of Labour)
Dindigul District.

2. A.Sahul Hameed,
S/o Abdul Muthalif,
Anandhagiri 2nd Street,
Moonjikkal,
Kodaikanal,
Dindigul District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari or any other appropriate writ, order or direction against the order of the Appellate Authority under the Shops and Establishments Act Dindigul passed in T.N.S.E.No.02/2015 dated 13.03.2017 in the nature of writ calling for the records on the file of the first respondent and quash the same.

For Petitioner : Mr.VOS.Kalaiselvam

For Respondents : Mr. Mr.J.Gunaseelanmuthiah for R1
Mr.R.Saravanan for R2

ORDER

The second respondent herein filed an appeal before the first respondent appellate authority. The grievance of the second respondent was that he was wrongfully terminated from service by the petitioner Management. The appellate authority by the impugned order, set aside the said termination. Questioning the

same, this writ petition has been filed by the Management.

2.The learned counsel appearing for the petitioner Management contended that the second respondent used to be engaged on a casual basis. As and when he was engaged, he was paid the daily wages. He also pointed out that after 2008, the petitioner did not even come for accepting any work that may be given by the Management on casual basis.

3.Per contra, the learned counsel appearing for the second respondent wanted this Court to sustain the order passed by the appellate authority.

4.This Court went through the materials on records.

5.The contention of the counsel for the Management that the second respondent was never employed by the petitioner is clearly incorrect. Exs.A1 to A3 disprove the same. Exs.2 and A3 are orders of transfer transferring the second respondent from one branch of the petitioner society to another branch. Ex.A7, by which, the second respondent was disengaged, also states that the second respondent was an employee of the petitioner-society. It is obvious that the second respondent was employed by the Management for more than seven years. It is again admitted vide Ex.A9 that the second respondent was once again re-employed in the year 2013 and he was terminated from service without any justification. The only stand taken before the appellate authority is that on account of the financial crisis, the Board decided to disengage the second respondent.

6.The order passed by the appellate authority is certainly justified. The appellate authority has only set aside the order of termination. They did not order any back-wages.

7.From the materials on record, this Court can clearly see that the second respondent had worked from the year 2000 to 2008 and again from 2013 to 2014. On the side of the Management, no witness was examined and no document was marked. If an employee, who had served for not less than eight years, is to be terminated from service, some procedure will have to be adopted. In this case, nothing was adopted. There was no enquiry and no show cause notice. The termination is summary and without any reason. Therefore the appellate authority rightly interfered with the same. The petitioner Management has not made out a case for interfering with the order passed by the appellate authority. The writ petition is without any merit and stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To
1. The Appellate Authority,
Under the Tamil Nadu Shops and
Establishment Act,
(Deputy Commissioner of Labour)
Dindigul District.

+ 1 cc TO Mr.R.Saravanan , Advocate in SR No. 51349
+ 1 cc TO Mr.V.O.S.Kalaiselvan , Advocate in SR No. 51355
+ 1 cc TO The Special Government Pleader in SR No. 51629

skn
AE/SV MMS/SAR1/01.06.2018/3P/5C

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and
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