



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P(MD)No.18919 of 2017
and
WMP(MD)No.15255 of 2017

The Management,
MU 8 Usilampatti Agricultural
Producers Cooperative
Marketing Societies Ltd,
Usilampatti, Madurai District.

... Petitioner

Vs.

1.Tamil Nadu Shops and
Establishment Appellate Authority,
(Deputy Commissioner of Labour),
Madurai.

2.J.Rameena

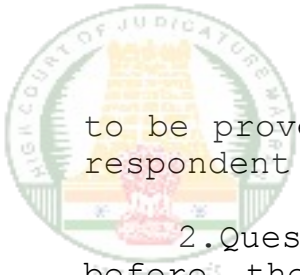
... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the Case No.TNSE 8/2012 dated 21.06.2017 on the file of the first respondent and quash the same.

For Petitioner : Mr.P.Arun Jayatram
For Respondents : Mr.Velmurugan for R1
Mr.R.Saravanan for R2

ORDER

The second respondent was employed as a Saleswoman in the petitioner society. The second respondent was called upon to look after the Fair Price Shop. During inspection it was found out that there was considerable short fall in the rice stock as well as the sugar stock. Other allegations such as non disbursement of the of the PDS items to the old age persons were also made. Enquiry was conducted against the second respondent. During the enquiry, the second respondent herein admitted that she was at fault. She also remitted a sum of Rs.4,130/- which represents the value of the short fall. She also admitted that she had inducted one Jegajeevanram as an assistant and that due to some lapse on his part, the accrued stock quantity was not reflected. Enquiry officer found the charges



to be proved against the second respondent. Ultimately, the second respondent was dismissed from service.

2. Questioning the same, the second respondent filed an appeal before the Appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947. The Appellate Authority by order dated 21.06.2017 allowed the appeal and set aside the order of dismissal from service. The second respondent was directed to be reinstated without back-wages. Questioning the same, the management has filed this writ petition.

3. Heard the learned counsel appearing for the management as well as the second respondent/employee.

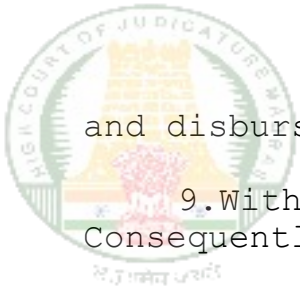
4. The learned counsel appearing for the management took this Court through the admission made by the second respondent during the course of enquiry. The second respondent had admitted the charges attributed to her. Her only defence was that she did not have any malafide intention. Admitting her lapse, she also remitted the value of the short fall.

5. The learned counsel appearing for the second respondent/workman pointed out that the second respondent had admitted the lapse attributed to her only in view of the assurances held out by the management. Be that as it may, one fact cannot be disputed. The second respondent had admitted that one Jegajeevanram was inducted as an assistant to carry on her duties. Though this is not the charge framed against her, this fact cannot be lost sight of. The second respondent was entrusted with PDS items which are distributed among the poor.

6. The second respondent had committed serious breach of trust by permitting another person to have dominion over the entrusted goods. It appears that lapse committed by the said Jegajeevanram had resulted in the short fall. Therefore, the first respondent ought to have taken note of all these facts. The first respondent has mechanically allowed the appeal without even considering the admission made by the second respondent.

7. It is true that the management is obliged to establish the charges framed against the delinquent employee. But, where the delinquent employee herself admitted the lapse attributed to her then that is the best proof available. The first respondent has allowed the appeal erroneously. Therefore, the order impugned in this writ petition is quashed.

8. The learned counsel appearing for the second respondent submits that the management did not pay subsistence allowance to the second respondent. If a dismissed employee is entitled to be disbursed certain benefits, it is the duty of the management to pay those monetary benefits to the employee. The petitioner/management is directed to quantify the amounts payable to the second respondent



3

and disburse the same within a period of four weeks from today.

9. With this direction, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.P.ARUN JAYATRAM, ADVOCATE IN SR No. 52281

SKM

TE/SKN-RSK/SAR-3 : 08/06/2018 : 3P/2C

W.P(MD)No.18919 of 2017 and
WMP(MD)No.15255 of 2017
27.02.2018