



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 23.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN  
W.P. (MD)No.18964 of 2017  
and  
W.M.P (MD)No.15322 of 2017

EXPO FRIEGHT PVT LTD,  
rep. by its  
National Head - Internal Audit & Legal  
Sarathy  
S/o G.Swaminathan,  
No.78, Josiar Street,  
Nungambakkam,  
Chennai - 600 034.

... Petitioner

Vs.

1.The Christopher John

2.The Deputy Commissioner of Labour,  
Deputy Commissioner of Labour Office,  
Opp to V.O.C., Ground,  
Palayamkottai,  
Tirunelveli District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the entire records relating to the impugned order passed by the second respondent in TNSEA No.1 of 2013 on the file of the Deputy Commissioner of Labour, Tirunelveli dated 13.07.2017 and quash the same.

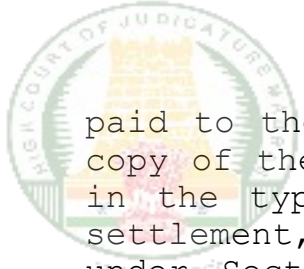
For Petitioner : Mr.M.Pandiarajan

For Respondents : Mr.K.Saravanan  
Govt. Advocate for R2  
No appearance for R1

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### O R D E R

The first respondent herein was employed in the writ petitioner Company as 'Assistant'. According to the writ petitioner, the first respondent had indulged in certain acts which were unbecoming of an employee of the petitioner Company. The first respondent is said to have threatened his superior and also caused embarrassment to the Management by lodging a police complaint. Therefore, the petitioner Management issued show cause notice dated 08.05.2013. The first respondent was suspended in the meantime. The first respondent submitted his explanation on 10.05.2013. Not satisfied with the said explanation, the first respondent was terminated from service by order dated 22.05.2013. Thereafter, a sum of Rs.1,02,031/- was



paid to the first respondent towards full and final settlement. A copy of the receipt issued by the first respondent is also enclosed in the typed set of papers. After receiving the full and final settlement, the first respondent filed appeal before the authority under Section 41 of the Tamil Nadu Shops and Establishment Act, 1947. In the said TNSEA No.1 of 2013 filed by the first respondent, the petitioner herein filed their counter. In the counter, the petitioner Management had specifically referred to the fact that the first respondent is estopped from questioning the termination after accepting a sum of Rs.1,02,031/- as full and final settlement. It is further pointed out that the first respondent is now employed in NAV Bharath Enterprises.

2.The appellate authority however negatived the said submission and allowed the appeal filed by the first respondent. The principal ground for allowing the appeal was that the Management did not conduct any enquiry before terminating the first respondent from service. The reasons assigned in the impugned order passed by the appellate authority under the Tamil Nadu Shops and Establishment Act cannot be taken exception to. But the authority ought to have dealt the contention raised by the Management that the first respondent could not have filed the appeal after accepting the sum of Rs.1,02,031/- towards full and final settlement. Since this contention raised by the Management has not been considered, this Court is constrained to quash the impugned order. The matter is remitted to the file of the second respondent to pass fresh order in accordance with law. The second respondent shall issue fresh notice to both the petitioner as well as the first respondent, hear them and thereafter, pass fresh orders in accordance with law.

3.This writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,

Deputy Commissioner of Labour Office,

Opp to V.O.C., Ground, Palayamkottai, Tirunelveli District.

+1cc to M/s.Special Government Pleader, SR.No. 51305

+1cc to Mr.M.PANDIARAJAN, Advocate, SR.No. 51115

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and

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