



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2018

CORAM

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**W.P. (MD) .No.13578 of 2016 and
W.M.P. (MD) No.10126 of 2016**

Management/President,
A-1805, Theni Allinagaram
Municipality Menial Employees Co-operative
Thrift and Credit Society,
A.V.R.Complex,
Theni Panchayat Union Office, (Opposite road),
Theni.

... Petitioner

Vs.

1. The Deputy Commissioner of Labour,
Dindigul, Dindigul District.

2. K.Saravanan

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to the impugned order issued by the first respondent in T.N.S.E. Appeal No.7 of 2014, dated 24.05.2016 and quash the same.

For Petitioner : Mr.D.Sadiq Raja
For R-1 : M/s.S.Srimathy,
Special Government Pleader.
For R-2 : Mr.MD.Imran,
for M/s.Ajmal Associates.

ORDER

Heard the learned counsel on either side.

2.The second respondent herein was working as Secretary(In-charge) of the Writ petitioner society. The Writ petitioner is a co-operative institution registered under the Tamil Nadu Co-operative Societies Act. The second respondent was placed under suspension on 11.11.2013. He was issued with a Charge Memo on 31.12.2013. The second respondent offered his explanation. It was

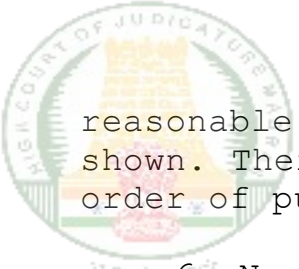


not found to be satisfactory. Hence, an enquiry officer was appointed to conduct an enquiry into the charges levelled against the second respondent. The enquiry officer submitted his report on 24.03.2014 holding that all the charges levelled against the second respondent stood proved. The second show cause notice was issued on 27.03.2014. After considering the second respondent's explanation and offering him an opportunity of personal hearing, the second respondent was dismissed from service on 10.06.2014. Questioning the same, the second respondent filed an appeal before the Authority constituted under Tamil Nadu Shops and Establishments Act. The first respondent by an impugned order, dated 24.05.2016 in T.N.S.E. Appeal No.7 of 2014, allowed the said appeal and set aside the punishment of dismissal. Questioning the same, the Writ petition has been filed.

3.The learned counsel appearing for the petitioner reiterated the grounds set out in the affidavit filed in support of the Writ petition.

4.The charges against the second respondent are fourfold. There was a fire accident in the office of the Writ petitioner society on 13.09.2010. The loan registers got destroyed. Therefore, based on the last taken notice, the records were reconstructed by the second respondent. The allegation of the management is that the reconstruction of the records was faulty and that led to loss of Rs.12,51,460/- to the society. The second charge was with regard to quantification of interest from borrowers on the lower side. The third charge was improper recommendation for grant of loan in violation of rules and regulations. The fourth charge was responding under Right to Information Act, to a query raised by an applicant. The enquiry officer himself had dropped the third charge.

5.The appellate authority found that the following reconstruction of records, there was an inspection followed by an audit. The charge memo was issued based on the inspection report which was not final. The subsequent auditor's report was not even taken into account. That apart neither the inspection officer nor the Audit officer were examined during the enquiry. When the previous records got destroyed and they were reconstructed, there is bound to be some discrepancy. It is not the case of the management that the second respondent willfully and wantonly fabricated the figures so as to cause loss to the society. Therefore, the second respondent was rightly exonerated from the charge of misconduct by the appellate Authority. Likewise it was noted that the second respondent as Secretary(In-charge) was bound to act as Assistant Public Information Officer. Therefore, the second respondent had only discharged his statutory function by responding to a query under Right to Information Act. The appellate Authority rightly noted that the second respondent's services could not have been dispensed with except for a



reasonable cause. In this case, such a reasonable cause was not shown. Therefore, the first respondent rightly interfered with the order of punishment imposed on the second respondent.

6. No case has been made out by the petitioner for interfering with the well considered decision of the appellate Authority. There is no merit in this Writ petition.

7. Accordingly, the Writ petition stand dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour,
Dindigul, Dindigul District.

+1 cc to M/S.Ajmal Associates, Advocate IN SR No.48426
+1 cc to Mr.D.Sadiq Raja, Advocate IN SR No.48183
+1 cc to The Special Government Pleader, IN SR No.48613

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