



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7338 of 2017

and

WMP(MD)No.5763 of 2017

Tamilnad Mercantile Bank Ltd.,
57, V.E.Road, Tuticorin -2,
Rep.by its General Manager.

... Petitioner

Vs.

1. The Appellate Authority under the
Tamil Nadu Shops and
Establishment Act,
(Deputy Commissioner of Labour),
BharathiUla Road, Race Course,
Madurai.

2. C.Kanagasabai

... 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 impugned order dated 03.02.2017 passed by the first respondent in TNSE.No.1 of 2006 and quash the same as illegal.

For Petitioner : Mr.M.Jerin Mathew

For Respondent No.2 : Mr.S.Ramu

For Respondent No.1 : No appearance

ORDER

The second respondent was employed as a Manager in TamilNad Mercantile Bank Limited. In the matter of disbursement of TAHDCO loans, the second respondent appeared to have committed a large number of irregularities. Therefore, in this regard a charge memo was issued on him and after conducting an enquiry, he was dismissed from service. Questioning the same, the second respondent filed an appeal before the first respondent. The Appellate Authority under Tamil Nadu Shops and Establishments Act by the impugned order allowed the appeal. The same is assailed in this writ petition.



2. Heard the learned counsel on either side.

3. This Court went through the entire materials on record. It is seen that the order of the Appellate Authority runs to 109 pages. Pages 1 to 104 contain a mere narration of the antecedent facts. The operative portion of the order is spread over pages 105 to 110. Even there it is seen that the charges are extracted and by cryptic order, the issues have been answered in favour of the employee. By the impugned order, the Appellate Authority modified the punishment from dismissal to one of discharge. There is absolutely no discussion of the contention raised by the management. There is not even a single reference to the reasoning of the enquiry officer.

4. This Court is of the view that the order of the appellate authority is totally perverse. Therefore, the order impugned in this writ petition is quashed and the matter is remitted to the file of the first respondent authority to pass fresh orders in accordance with law. It is needless to mention that the Appellate Authority will hear the management as well as the employee and after discussing the entire materials on record, proceed to pass orders in accordance with law.

5. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

The Deputy Commissioner of Labour
Appellate Authority under the
Tamil Nadu Shops and Establishment Act,
BharathiUla Road, Race Course,
Madurai.

+ 1 cc TO M/s. Jerin Mathew , Advocate in SR No. 51839
+ 1 cc TO Mr. S. Ramu , Advocate in SR No. 51780
+ 1 cc TO The Special Government Pleader in SR No. 51616

skm

AE/SKN RSK/SAR1/05.07.2018/2P/5C

W.P (MD) No. 7338 of 2017
and

WMP (MD) No. 5763 of 2017
27.02.2018