



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.03.2018

Pronounced on : 04.06.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.24808 of 2016

WEB COPY

P.Sundaramurthy

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Trichy.

2.The Management,
Trichirappalli District,
Amaravathi Consumers Co-operative
Wholesale Stores Limited,
Trichy.

... Respondents

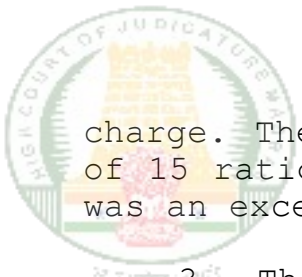
Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records in connection with the impugned award passed by the 1st respondent in I.D.No.55 of 2014 dated 22.12.2015 and quash the same as illegal and consequently direct the 2nd respondent to reinstate the petitioner in service and pay all his attendant benefits.

For Petitioner : Mr.K.K.Senthil
For R.2 : Mr.R.Vijayakumar

ORDER

The petitioner was employed as a Junior Salesman in a ration shop run by the second respondent. He was dismissed from service by order dated 15.03.2012. The petitioner raised an Industrial Dispute. The same was taken on file as I.D.No.55 of 2014 on the file of Labour Court, Tiruchirappalli. By the impugned award dated 22.12.2015, I.D.No.55 of 2014 was dismissed. The same is assailed in this writ petition.

2. The learned Counsel appearing for the petitioner submitted that the petitioner was posted at Babu Road Ration Shop No.1 (AC.023), only on 07.07.2011. On 20.07.2011, his wife fell ill and the petitioner had to take her for treatment. After dropping her home, the petitioner reported for duty at about 09.45 AM. Even prior to that, the shop was opened by one Iqbal. At that time, the Co-operative Sub Registrar, Thuraiyur, inspected the shop and found some discrepancies in the stock available. He asked the petitioner to stay out of the shop and took his signatures in various papers. Based on the inspection inputs, a charge memo dated 26.07.2011 was issued to the petitioner. The charge memo contained two articles of



charge. The first charge was that the petitioner was in possession of 15 ration cards unauthorizedly. The second charge was that there was an excess of 100 kgs of rice.

3. The petitioner submitted his explanation on 26.08.2011, denying the charges. The Enquiry Officer, however, submitted his report dated 29.09.2011, holding that the charges framed against the petitioner stood proved. Based on the same, the petitioner was removed from service on 15.03.2012. The petitioner's specific contention is that the disciplinary authority, straight away, dismissed the petitioner from service, without even issuing any notice or calling for the petitioner's explanation on the enquiry report. He would, therefore, contend that the entire proceedings are void ab-initio, in view of the clear violation of principles of natural justice. He would also contend that the inspection was not done in the petitioner's presence, because at the time of inspection, the petitioner was sent out from the shop. In any event, considering the fact that the petitioner had joined the said shop only 13 days prior to the date of inspection, imposing the punishment of dismissal from service is a penalty that is not commensurate with the gravity of the charges. The learned Counsel for the petitioner also invoked the principle of proportionality. He also highlighted the fact that the petitioner had served under the second respondent for almost 28 years without any blemish.

4. The learned Counsel for the second respondent, on the other hand, submitted that the impugned award does not warrant any interference.

5. This Court carefully considered the rival contentions with reference to the evidence on record. It is not in dispute that the ration shop in question was to be maintained exclusively by the petitioner herein. It is again not in dispute that at the time of inspection on 20.07.2011, the shop was manned not by the petitioner, but by one Iqbal. The petitioner, in the affidavit filed in support of the writ petition in paragraph No.3, would state that the said shop was opened and manned by one Iqbal, Assistant in the said shop. But, it is not the case of the petitioner that the said Iqbal was an employee appointed by the second respondent. The feeble defence projected by the petitioner before the Labour Court is that the said Iqbal has been associated with the running of the ration shop even prior to the petitioner's joining in the said shop on 07.07.2011. But, this cannot be an excuse. When the petitioner took charge of the shop on 07.07.2011, he ought to have told Iqbal that he could not have any hand in running of the said shop. The act of the petitioner in giving the key of the shop to the said Iqbal itself speaks volume about the connivance between the petitioner and the said Iqbal. The Co-operative Sub Registrar, Thuraiyur, inspected the shop suddenly on 20.07.2011. It was already opened and it was the said Iqbal, who was manning the shop at the time of inspection. The inspecting official had noted that 15 ration cards were in unauthorised possession. It was also found that 100 kgs of excess



rice was there. Therefore, the Enquiry Officer rightly found that the charges framed against the petitioner stood proved.

6. It may be that based on the enquiry report, the disciplinary authority, straight away, issued the order of dismissal on 15.03.2012. But, it is seen that after the enquiry report was submitted on 29.09.2011, the petitioner had submitted a letter dated 01.03.2012. But, we are now dealing with an industrial dispute. This is not a case arising under Service Law. In any event, based on the admitted position, the Labour Court came to the conclusion that the petitioner was rightly dismissed. This was because, Public Distribution System (PDS) is meant to cater to the needs of the downtrodden sections of the Society. It was found that 100 kgs of rice was found to have been kept separate. This clearly shows that the intention was to sell the PDS rice, meant for the poor, in black market. The entire blame will have to be necessarily fastened on the petitioner. One can imagine as to how a person, who was not appointed by the second respondent, could have the keys of the ration shop in question, unless there is prior connivance and collusion between the petitioner and the said Iqbal. The said Iqbal ought not to have been permitted to open and man the ration shop in the absence of the petitioner.

7. The Labour Court has given sound reasons for dismissing the Industrial Dispute. This Court finds no reason to interfere with the same. There is no merit in this writ petition and the same is liable to be dismissed.

8. Accordingly, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court, Trichy.

Copy to : The Record Keeper,
VR. Section,
Madurai Bench Of Madras High Court,
Madurai. (2 Copies)

+1CC to Mr. R. Vijayakumar, Advocate in SR.No.67048,
+1CC to Mr. K. K. Senthil Advocate in SR.No.66622.

GK

DS/SV/MMS/SAR-3 :12.06.2018: 3P/6C