

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.6059 of 2010

M.Devendran

... Petitioner

Vs

1.The Presiding Officer
Labour Court,
Salem.

2. The Management of
Kannomoochi Agricultural
Promary Co-op Bank,
Kannomoochi,
Mettur, Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus, to call for the records pertaining to I.D.No.188/2003 and quash the award dated 17.09.2007, passed by the 1st respondent dismissing the same and further direct the 2nd respondent herein to reinstate the petitioner in service with backwages.

For Petitioner : Mr.R.M.D.Nasrullah

For Respondents: R1-Labour Court
Mr.K.Selvaraj for R2.

O R D E R

The award dated 17.09.2007 passed in I.D.No.188 of 2003 is under challenge in the present writ petition.

2. The writ petitioner/workman was in-service of the second respondent. On account of certain allegations, a charge memo was issued on 19.09.1996. The allegations against the writ petitioner was that he sold the goods meant for public distribution in black Market at premium rate and to cover up the same prepared bogus bills as if goods were sold to ration card holders.

3. The petitioner objected the allegations and an enquiry was conducted. The enquiry officer found that the charges

against the writ petitioner were proved, and therefore, the writ petitioner was dismissed from service with effect from 13.05.1997. The petitioner raised an industrial dispute before the Labour Court, Salem in the year 2003, after a lapse of 6 years from the date of termination. The Labour Court also rejected the industrial dispute, based on the documents as well as the evidence placed before the Court. Challenging the said award, the present writ petition is filed.

4. The learned counsel for the writ petitioner states that the Labour Court has committed an error in appreciating the documents as well as the statements furnished by the writ petitioner. The petitioner states that the Labour Court has erroneously held that the charges were proved against the writ petitioner. In the absence of any evidence, the findings of the Labour Court that the writ petitioner had manipulated the records to screen the misconduct committed cannot be accepted. During the audit conducted, no such illegalities were proved against the writ petitioner, but the case of the writ petitioner was rejected by the Labour Court. Thus, the award of the Labour Court is liable to be scrapped.

5. This Court has carefully gone through the findings of the Labour Court. It is sufficient if the findings of the Labour Court is extracted in this writ petition. The Labour Court has considered all the documents filed before the Court and made a finding that the writ petitioner has committed certain misconducts and even on earlier occasion, the petitioner's conduct was not good. Further, an observation was also made that the writ petitioner has committed irregularities like temporary misappropriation, deficit of goods etc., and he was warned on his letter admitting irregularities. The management accepting the regret of the petitioner warned him on several occasion. In spite of the earlier warning, the petitioner committed serious irregularity of selling foods in the black market for higher price and prepared a false sale bill as if the goods entrusted to him were sold to ration card holders. The petitioner's conduct and malpractice not only affect the image and goodwill of the bank but, causes law and order problem.

6. The labour Court relied on Ex.R.5 dated 05.09.1996, wherein it is stated that a delivery boy attached to Lead Society, delivered a bill without date, as if the goods were supplied to the petitioner and later, he filled up the date in the bill as 30.09.1996, and submitted the same to the bank and prepared records for receipt and sale of the goods, and that he was given commission of Rs.0.65 paise for each bag of rice. Though the petitioner denied the contents in Ex.R4, R5, he admitted his signature in the said documents, namely, Ex.R4 and R5. Ex.R4 and R5 were recorded by the Special Officer. It is relevant to extract paragraph No.11 of the findings of the Labour Court, which reads as under:

11. The learned counsel appearing for the petitioner submits that Ex.R.2 bill does not contain the signature of the petitioner and it was signed by one Lakshmi. Therefore no responsibility can be fixed on the petitioner for supply of 1000 kg of rice on 30.08.1996. But, the petitioner in his cross-examination has admitted that he is responsible for the goods supplied to the fairprice shop under Ex.R2 bill. Therefore, the petitioner cannot claim any advantage on the score that Ex.R.2 bill does not contain his signature. It is already stated that the salesman of the fair price shop is responsible for the goods entrusted to him, sale of goods to card holders, remittance of every sale amount to the bank and the stock. The petitioner by his own admission has stated that he made entries in the stock register without actually receiving the goods from the lead society and that he was paid commission for preparing false account. The petitioner gained himself by preparing false account and manipulation of records. The management has proved the charge against the petitioner beyond reasonable doubt, through the proof required in the domestic enquiry is only the preponderance of probability. Further, the petitioner has come to Court after 5 years. He has also questioned the termination for about 5 years and the petitioner's claim is also barred by lapse of time and latches.

7. In view of the facts and circumstances of the case as well as the findings of the Labour Court, this Court is of the opinion that the charges against the petitioner were proved beyond doubt and he has committed grave misconduct and therefore, there is no perversity or otherwise in the matter of imposing the penalty of dismissal from service. The punishment imposed is in commensuration with the gravity of proved charges against the petitioner and as such there is no infirmity. Consequently, the award dated 17.09.2007 passed in I.D.No.188 of 2003 is confirmed and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssb

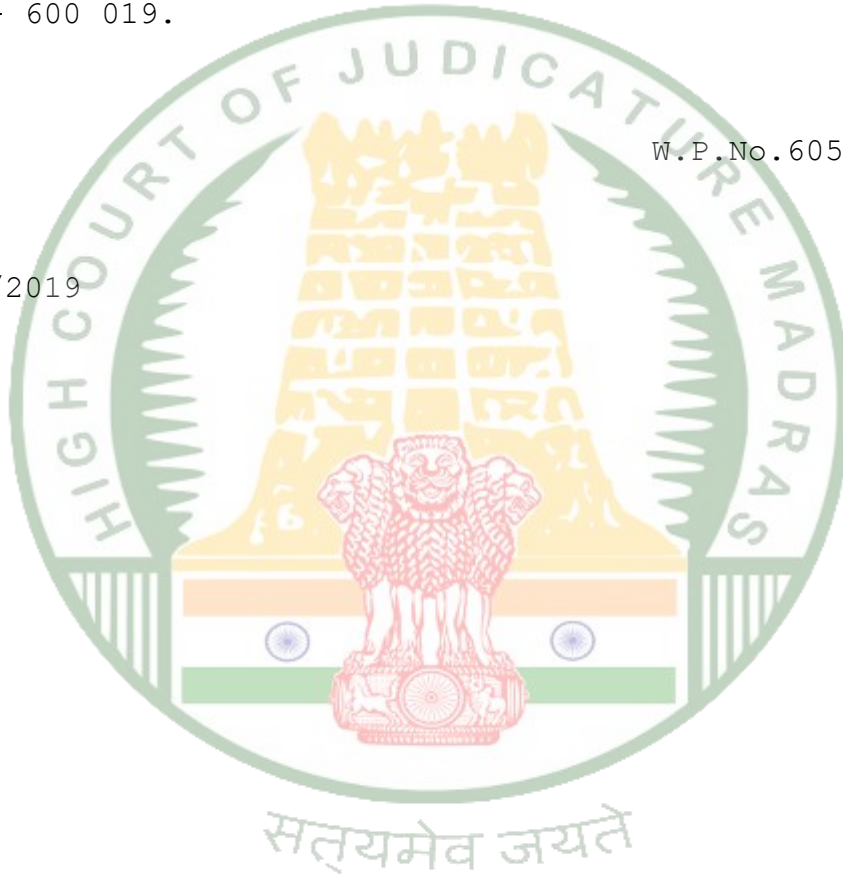
To

1.The Presiding Officer,
Industrial Tribunal, Chennai.

2.The Management of MRF Ltd.,
Post Box No.5285,
Tiruovottiyur,
Chenna- 600 019.

W.P.No.6059 of 2010

gp[col
srg 18/11/2019



WEB COPY