



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P. (MD) .No.7275 of 2011

K.Soundarapandian (Died)

1.S.Kalpana

2.S.Aarthi

3.S.Sountharya (Minor)

4.K.Sittammal

.. Petitioner

(P1 to P4 are LRs of the deceased sole petitioner impleaded vide Court order dated 14.11.2017 in W.M.P.(MD)No.6637 of 2017)

Vs.

1.The Appellate Authority under the
Tamil Nadu Shops and Establishment Act,
Deputy Commissioner of Labour,
Dindigul.

2.The Special Officer,
M.D.Special 21, Goodalur Cooperative Stores Ltd.,
Goodalur, Uthamapalayam Taluk,
Theni District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent's impugned orders dated 15.02.2007 in TNSE No.2 of 2006 and 03.06.2011 bearing Ka.Ne.Sa.Appeal No.2 of 2006 (Review Petition) and quash the same and directing the respondents to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : Mr.R.Saravanan

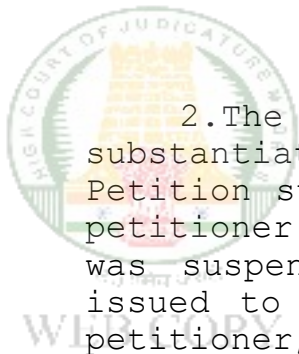
For Respondent 1 : Mr.M.Jeyakumar

Additional Government Pleader

For Respondent 2 : Mr.G.Murugesan

O R D E R

This Writ Petition is filed challenging the order of the appellate authority in TNSE No. 2 of 2006 dated 03.06.2011 and to reinstate the petitioner.



2.The learned Counsel appearing for the petitioner is unable to substantiate that the order of first respondent impugned in the Writ Petition suffers from any material irregularity or illegality. The petitioner was working as Salesman under the second respondent. He was suspended from service on 03.06.2003 and a charge memo was issued to him on 15.09.2003. After getting explanation from the petitioner, an enquiry was conducted and final report was submitted on 21.12.2003. Based on the report, second show cause notice was issued and thereafter, the petitioner was terminated from service. As against the order of termination, the petitioner preferred an appeal before the first respondent under Section 41(2) of the Tamil Nadu Shops and Establishment Act in TNSC No.2 of 2006. The appeal was also dismissed on merits on 15.02.2007. Stating that the order dated 15.02.2007 was without providing any opportunity to the petitioner and without going into the merits of the case, the petitioner preferred a petition to reopen the case on 14.05.2007 in I.A.No.7 of 2007 in TNSC No.2 of 2006. The petition was also dismissed by the appellate authority recording a finding that the order passed earlier on 15.02.2007 was on merits and that therefore, there is no illegality in the earlier order of the appellate authority. Challenging the order dated 15.02.2007 in the appeal as well as the order dismissing the re-open petition, the above Writ Petition is filed.

3.The petitioner was engaged in the Fair Price Shop run by the second respondent. For the misconduct stated to have been committed by the petitioner, a charge memo was issued. After following the principles of natural justice and conducting enquiry, the Enquiry Officer found that the petitioner is guilty of all the charges. The main contention that was raised before the appellate authority was by stating that no sufficient opportunity was given to the petitioner to submit his further explanation to the second show cause notice. Except the contention that there was no proper enquiry, no material or factual details are stated even in the affidavit to substantiate that the order of appellate authority confirming the order of disciplinary authority is vitiated. In the said circumstances, this Court is unable to find any reason to interfere with the order of the appellate authority. As a result, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(AD-I)

// True Copy //

Sub Assistant Registrar(CS)

SRM

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Appellate Authority under the
Tamil Nadu Shops and Establishment Act,
Deputy Commissioner of Labour,
Dindigul.

2.The Special Officer,
M.D.Special 21, Goodalur Cooperative Stores Ltd.,
Goodalur, Uthamapalayam Taluk,
Theni District.

+1CC TO MR.R.SARAVANAN, Advocate Sr. No.96234

+1CC TO MR.G.MURUGAN, Advocate Sr. No96235

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 96344

ORDER MADE IN
W.P. (MD) .No.7275 of 2011
05.11.2019

SCR(CO)
TR(20.11.2019) 3P 6C