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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2021

:CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.39372 OF 2006 AND

M.P.NO.1 OF 2006

The Management,
Tamilnadu Warehousing
Corporation Employees
Cooperative Thrift and
Credit Society Ltd,
No.10, Annasalai,Guindy,
Chennai- 600 032.

... Petitioner

-vs-

1. M.G.Rajendran
2. Presiding Officer,
Second Additional Labour Court,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the Second Additional Labour Court, Chennai relating to the award in I.D.No.660 of 2000 dated 06.07.2006 and quash the same.

For Petitioner : Mr.P.Anbarasan

For Respondents : No appearance

O R D E R

This Writ Petition has been filed by the Petitioner-Management, challenging the award dated 06.07.2006 in I.D.No.660 of 2000, on the file of the Second Additional Labour Court, Chennai, by which the Labour Court directed reinstatement to the first respondent/employee, without backwages on the ground that he remitted back the entire misappropriated amount.

2. The main contention of the learned counsel for the petitioner is that despite the fact that the first respondent committed serious misconduct of misappropriation of a sum of Rs.74,086/-, the Labour Court has granted an order of



reinstatement to the first respondent/workman which is erroneous.

3. Heard the learned counsel for the petitioner. Perused the records. No representation for the respondents.

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4. Challenging the order of dismissal dated 31.07.1998, an Industrial Dispute was raised by the first respondent/workman in I.D.No.660 2000. The Labour Court vide order dated 06.07.2006 held that the enquiry officer have not followed the procedure of giving reasonable opportunity and also there is a clear violation of principles of natural justice. However, the Labour Court held that since the employee has admitted misappropriation and repaid the amount to the respondent Society, he is entitled for reinstatement without backwages and thereby granted reinstatement to the employee.

5. In the counter affidavit filed by the first respondent/employee, it is stated that employee was removed from service by the President of the Society as against the by-laws of the Society and according to which the Sub committee is the appropriate authority to remove or dismiss an employee and when an employee has been appointed through Employment Exchange by the Board of Directors, only the Board of Directors are empowered to dismiss him from service.

6. It is not in dispute that the employee has committed serious irregularities such as falsification of records and misappropriation of funds, which has been admitted by him as has been held by the Labour Court. That being the case, when an employee admits the guilt before the enquiry officer no detailed enquiry is required. The Labour Court interfered and awarded reinstatement without backwages. Though the matter has been dealt with at large by the Appellate Authority, the Labour Court has taken a decision and substituted its view in the place of view taken by the disciplinary authority which is the appellate authority.

7. As serious misconduct has been committed, which has been admitted by the employee, this Court is of the view that the award of Labour Court suffers from perversity and same needs to be interfered with.

8. In view of the same, this Court is inclined to set aside the award of the Labour Court dated 06.07.2006. Accordingly, the award passed by the second respondent/Labour Court dated 06.07.2006 is set aside. However, it is made clear that except terminal benefits that may be due to the employee, upto the date of dismissal i.e, 31.07.1998, the workman is not entitled for any claim. The terminal benefits upto 31.07.1998, if any, shall be settled by the petitioner/Management within a period of two



months from the date of receipt of a copy of this order.

9. In the result, this Writ Petition is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Second Additional Labour Court,
Chennai.

+1cc to Mr.P.Anbarasan, Advocate, S.R.No.35199

W.P.No.39372 of 2006

KSM(CO)
PM/22/09/2021