



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2021

CORAM

WEB COPY

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P(MD)No.9690 of 2009**

**and**

**M.P(MD)No.1 of 2009**

The Management,  
Tirunelveli Cop-Operative  
Printing Works Ltd,  
No.1, Railway Feeder Road,  
Tirunelveli Town - 627 006.

... Petitioner

Vs.

1. The Presiding Officer,  
Labour Court,  
District Court Complex,  
Thoothukudi Road,  
Palayamkottai.

2. E.Karuppasamy

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, for issuance of a writ of certiorari, calling for the records of the 1<sup>st</sup> respondent, in I.D.No.73 of 1995 and quash the award, dated 30.08.2007.

|                        |   |                                           |
|------------------------|---|-------------------------------------------|
| For Petitioner         | : | Mr.S.Seenivasagam                         |
| Respondent No.1        | : | Labour Court                              |
| For Respondent<br>No.2 | : | Mr.C.Prithiviraj,<br>for Mr. D.Sadiq Raja |

**ORDER**

This writ petition is filed seeking a writ of certiorari, to quash the award dated 30.08.2007 passed in I.D.No.73 of 1995 on the file of the Labour Court, Tirunelveli.

2.The case of the petitioner is that the petitioner is a Co-Operative Printing Works Limited and it is having registered Special by-laws with regard to the service conditions of the employees of the press. The minimum educational qualification prescribed for the lowest posts of Compositor, Machine Man and Service boys is in ITI or Form or ESLC or VIII Standard, completed.



3.The 2<sup>nd</sup> respondent while joining duty as a Machine Man in the petitioner press, produced a school certificate / record sheet, as he passed VIII Standard. In order to regularise the services of few employees, who were simultaneously appointed along with the 2<sup>nd</sup> respondent as well as to open service registers for all of them, the Special Officer of the petitioner press called for the original school certificates from them. On verification of the certificates produced by one Mookkaiah, the Special Officer got shock, on finding that his date of birth was 16.03.1964 and admitted in the school on 10.06.1964, within three months from his birth.

4.Considering the fake certificate, which was produced by the said Mookkaiah, it was felt necessary to verify the particulars furnished by all of them, including the 2<sup>nd</sup> respondent and therefore, the Special Officer sent the particulars of the school certificates furnished by 15 employees to various Educational Officers. In this aspect, the District Educational Officer, Cheranmahadevi, after verification of the records, by his letter dated, 07.09.1990 informed the status of the certificate and that as per the records of R.C.Middle School, Cheranmahadevi, the admission No.1508 was not tallying with the name of the 2<sup>nd</sup> respondent and the Headmistress, whose signature found in the certificate on 02.06.1986, was not the Headmistress of the school at the relevant point of time and this school certificate produced by the 2<sup>nd</sup> respondent is a bogus one and likewise, three more certificates were also reported to be bogus.

5.Under such circumstances, the petitioner press issued a memo, dated 21.05.1992 to the 2<sup>nd</sup> respondent, calling upon his explanation and another memo dated, 16.06.1992 was issued to the 2<sup>nd</sup> respondent directing him to produce the original certificate on or before 20.06.1992. However, the 2<sup>nd</sup> respondent failed to produce the certificate for more than 20 days and therefore, the petitioner press issued yet another charge memo, dated 17.07.1992 to the 2<sup>nd</sup> respondent.

6.Since the 2<sup>nd</sup> respondent failed to offer any explanation, a domestic enquiry was ordered by appointing an Enquiry Officer and in conclusion of the enquiry, the Enquiry Officer, vide his report, dated 07.09.1992, found that the charges levelled against the 2<sup>nd</sup> respondent proved and based on the report, dated 07.09.1992 the 2<sup>nd</sup> respondent was dismissed from service on 12.10.1992, after complying with all the required formalities.

7.As against the order of dismissal, the 2<sup>nd</sup> respondent raised an Industrial Dispute in I.D.No.73 of 1995, before the Labour Court, Tirunelveli and the Labour Court, passed an award in favour of 2<sup>nd</sup> respondent, on the ground that without giving an



opportunity of hearing to the 2<sup>nd</sup> respondent, *ex-parte* minute drawn by the Enquiry Officer is not sustainable. Against the order of the Labour Court, Tirunelveli, the present writ petition is filed.

8.Mr.Seenivasagam, learned Counsel appearing for the petitioner press would submit that the Labour Court did not decide the matter on merits, whether the 2<sup>nd</sup> respondent is in possession of the original certificate and the certificate produced by him at the time of joining in the petitioner press is genuine or not. Without deciding the issue, mere technically, the Labour Court passed the award, which is unsustainable. Further, the 2<sup>nd</sup> respondent has not acquired the educational qualification, which is required for the post of Machine Man. Therefore, the learned Counsel prayed that since the Labour Court did not decide the matter on merits, this Court may set aside the award passed by the Labour Court and remand back the matter to the Labour Court to decide the matter on merits, as to whether the 2<sup>nd</sup> respondent acquired qualification by producing original certificates.

9.The learned Counsel appearing for the 2<sup>nd</sup> respondent would vehemently contend that the Labour Court, after an elaborate discussion, has passed the award in favour of the 2<sup>nd</sup> respondent, which could not be interfered with, in this writ petition under Article 226 of the Constitution of India, unless the petitioner satisfies that the award of the Labour Court is errant on the face of the record.

10.Heard the learned Counsel appearing on either side and perused the materials placed on record.

11.A perusal of the records shows that the Labour Court, on a technical ground that as if no opportunity was granted to the 2<sup>nd</sup> respondent, with regard to the proven minutes drawn against him, passed the award in favour of the 2<sup>nd</sup> respondent. However, the Labour Court, Tirunelveli, without deciding the main issue, as to whether the 2<sup>nd</sup> respondent has acquired the required qualification for the particular post and whether the certificate produced by him at the time of his joining in the petitioner press is genuine or not, passing an award in favour of the 2<sup>nd</sup> respondent in the opinion of this Court is unsustainable.

12.In the light of the above discussion, the award dated 30.08.2007 passed in I.D.No.73 of 1995 by the Labour Court, Tirunelveli is set aside and the matter is remanded back to the Labour Court, Tirunelveli, for fresh consideration, for a limited purpose, to find out as to whether the 2<sup>nd</sup> respondent had acquired the required qualification for the post of Machine Man and as to whether, the certificate produced by the 2<sup>nd</sup> respondent is genuine or not?



13. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

// True Copy //

Sd/-

Assistant Registrar (CS-III)

/ /2021

Sub Assistant Registrar (CS )

**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

**To:-**

The Presiding Officer,  
Labour Court,  
District Court Complex,  
Thoothukudi Road,  
Palayamkottai.

1 CC to M/s.D.SADIQ RAJA, Advocate ( SR-558[F] dated 08/01/2021)  
+1 CC to M/s.S.SEENIVASAGAM, Advocate ( SR-357[F] dated  
06/01/2021)

**W.P (MD) No. 9690 of 2009**  
**06.01.2021**

**dsk**

AE (18/01/2021) 4P / 4C