



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. (MD)No.2173 of 2012

G.Pavanasam

...Petitioner

Vs.

- 1.The Management,
Ambasamuthiram Agricultural
Producer's Co-operative marketing Society,
206, Puthugramam Street,
Ambasamuthiram Post,
Tirunelveli District.
- 2.The Presiding Officer,
Labour Court Tirunelveli,
Tirunelveli.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned award in ID No.200/2000 passed on 21.03.2011 by the 2nd respondent and quash the same as not valid and illegal and thereby direct the 1st respondent to pay all his arrear salary and all termination attended benefits.

For Petitioner	:Mr.T.Murugan
For R1	:Mr.V.M.Balamohan Thambi
For R2	:Court

O R D E R

This writ petition has been filed challenging the impugned award dated 21.03.2011 passed in ID No.200/2000 by the second respondent to quash the same and thereby direct the 1st respondent to pay all his arrears of salary and all termination attendant benefits.

2.The case of the petitioner is that initially, he joined as Peon in the first respondent Society on 09.09.1971 and he was promoted as Salesman on 29.09.1973. The petitioner has involved in Trade Union Activities and participated in many bipartite talks with the first respondent Society Higher Officers. The said activities had irritated the first respondent and hence, the first respondent was waiting for an opportunity to victimize the petitioner. In the month of August, 1989, the petitioner was transferred to the liquor shop, which is the sister concern of the first respondent, by oral



transfer order. While the petitioner was working as salesman in the liquor shop from 01.12.1990 to 07.12.1990, the first respondent Society made an allegation that as if the petitioner has not remitted the shortage deficit amount of Rs.33,552.50/- and further alleged that the petitioner had misappropriated the said amount for his personal use, thereby, a show cause notice was issued on 08.12.1990. Thereafter, the petitioner gave a detailed explanation on 12.12.1990. Without conducting any enquiry and without following the principles of natural justice, the first respondent Management dismissed the petitioner from service on 31.12.1990. Thereafter, the petitioner has remitted the said amount to the Management in time. However, the Management has failed to show the cash book during the enquiry before the second respondent. Thereafter, the first respondent called the petitioner on 02.01.1991 to write a reply and witness as their wish, on the assurance of the first respondent to give reemployment continuously without any charges. Thereafter, without any enquiry, the petitioner was terminated from service. Against which, the petitioner raised an industrial dispute in I.D.No.200 of 2000 before the second respondent, in which, the petitioner has also filed I.A.No.246 of 2008 before the second respondent for production of the cash book. However, the Labour Court allowed the said I.A, even though the respondent has not produced the records. Finally, the Labour Court confirmed the order passed by the disciplinary authority. Challenging the same, the present writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that the Labour Court has dismissed the Industrial dispute only on the ground that the petitioner has given consent letters dated 12.12.1990 and 20.12.1990 as if the petitioner had agreed to pay the amount for the period from 01.12.1990 to 07.12.1990. Accordingly, the petitioner has paid Rs.10,000/- on different dates and accept the guilt thereby, the termination order was passed. However, the said two letters were obtained from the petitioner by threatening and hence, the said letters are not valid in the eye of law. Hence, he prays for allowing the present writ petition.

4.Per contra, the learned counsel appearing for the first respondent submitted that the consent letters, dated 08.12.1990, 12.12.1990 and 20.12.1990 were rejected by the petitioners and the same were marked as Ex.M.2, Ex.M.4 and Ex.M6 through Management witnesses. In his cross-examination also the petitioner has accepted and had deposited a sum of Rs.10,000/- in different dates by accepting the guilty. When the petitioner himself accepted the guilt, there is no need for conducting the disciplinary proceedings, unless he disputed the guilt. Hence, there is no violation of the principles of natural justice and he prays for dismissal of the present writ petition.

5.Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials



available on record.

6.The facts in the present case are not in dispute. Initially the petitioner joined the service as Peon in the first respondent Society in the year 1971 and thereafter, he was promoted as Salesman in the year 1973 and thereafter, the petitioner was transferred to the Liquor shop run by the sister concern of the first respondent. It is also not in dispute that in the relevant period between 01.12.1990 and 07.12.1990, the petitioner was employed as Salesman in the liquor shop and he misappropriated to the tune of Rs.33,552.50/- and the said amount was used for his personal usage, for which, the first respondent issued a show cause notice to the petitioner on 08.12.1990 and the said notice was marked as Ex.M.W.1. The main contention of the learned counsel for the petitioner that the documents viz., Ex.M.W2, Ex.M.W4 and Ex.M.W6 obtained by the Management from the petitioner under threatening and coercion. However, the Management marked the petitioner's explanation dated 08.12.1990, 12.12.1990 and 20.12.1990 as Ex.M.W.2, Ex.M.W.4 and Ex.M.W.6 and all those documents were written by the petitioner in his own hand writing. Further, on a perusal of the said document, it is seen that the petitioner himself had admitted his guilt and agreed to pay the amount of misappropriation within a period of ten days. Accordingly, he remitted a sum of Rs.5,000/- on 26.12.1990 and 31.12.1990 and the said remittance was marked as Ex.M.W.8 and Ex.M.W.9. On a perusal of Exs.M.W.8 and 9, it is seen that the petitioner himself had admitted the guilt and paid a portion of the misappropriated amount and hence, there is no need to conduct departmental proceedings. Further, it is seen that the petitioner remitted only a portion of the amount and the balance amount was not remitted to the Society.

7.Admittedly, the termination order was passed in the year 1990 and the petitioner has initiated the conciliation proceedings in the year 1996 and thereafter, the petitioner has raised an industrial dispute before the second respondent in the year 2000. After a lapse of 5 years, there is no proper explanation from the petitioner for the delay in initiating the conciliation proceedings and raised an industrial dispute. In the absence of any proper explanation, this Court cannot interfere with the order of the Labour Court. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To:

The Presiding Officer,
Labour Court Tirunelveli,
Tirunelveli.

+1 CC to M/s.V.M.BALAMOZHANTHAMPI, Advocate (SR-7019[F] dated
24/02/2021)

+1 CC to M/s.T.MURUGAN, Advocate (SR-7097[F] dated 25/02/2021)

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RP (26.05.2021) P 4C