



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.16302 of 2013

S.Aalagaiya

... Petitioner

vs

1.The Special Officer,
Sayamalai Valasai,
Primary Agriculture Co-operative Bank,
Sayamalai Valasai Post - 628 552,
Sankarankovil Taluk,
Tirunelveli District.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

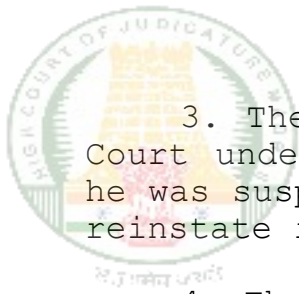
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order of I.D.No.46/2011, dated 13.02.2012 on the file of second respondent and quash the same, consequently, direct the first respondent to reinstate the petitioner with continuity of services and provide backwages.

For Petitioner : Mr.D.Saravanan
For R-1 : Mr.S.Ramasamy
For R-2 : Labour Court

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order, dated 13.02.2012 and consequently, direct the first respondent to reinstate the petitioner with continuity of services and provide backwages.

2. The petitioner was appointed as Attender/Clerk in the first respondent Society through Employment Exchange on 14.07.1978. On 01.09.1992, the petitioner was suspended alleging "storage loss" and a Charge Memo was issued. The petitioner has filed a petition before the Assistant Commissioner of Labour for subsistence allowance, vide petition, No.26/1994 and Rs.22,977/- was awarded as subsistence allowance. Against this, the Management filed an appeal and the same was also dismissed.



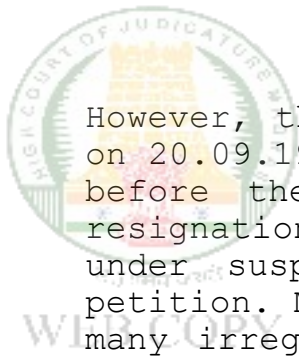
3. Thereafter, the petitioner raised an I.D. before the Labour Court under Section 2-A(2) of Industrial Dispute Act, stating that he was suspended from service and prayed to direct the management to reinstate in service.

4. The Management had filed counter before the Labour Court, it was stated that there is no employer and employee relationship. The petitioner was engaged as daily wage employee and committed "storage loss". The management had decided to reduce the strength of the staff and issued notice dated 28.08.1991 to petitioner and petitioner submitted before the management that he was working for long time and all of sudden if the he was ousted from job his family would suffer and hence, he was allowed to continue. The management has also stated that the petitioner caused serious loss to the Management during the year 1991 and a memo was also issued on 20.09.1991, it was also alleged that on 28.02.1992 the petitioner dropped the demand of subsistence allowance and accepted to join the job as temporary worker. On 01.03.1992, again the petitioner caused monetary loss at K. Karisalkulam Fair Price shop. On 01.09.1992 again the petitioner was place under suspension and on 20.09.1992 the petitioner submitted a resignation letter and on 02.08.1996, the Special Officer directed the petitioner to pay the amount which is pending on his account as monetary loss caused by the petitioner. On 01.04.1997, it was agreed by both the Management and the petitioner that the petitioner ought to accept the liabilities and solve the issues by crediting backwages benefits towards the loss caused by the petitioner to the Management and the receipt was also drawn on 01.04.1997. Thereafter, the petitioner was allowed to continue the job. On 30.04.1997, the petitioner was relived from service due to unauthorized absence for nearly 20 days i.e., from 10.04.1997 to 30.04.1997.

5. Heard Mr.D.Saravanan, learned Counsel appearing for the petitioner and Mr.S.Ramasamy, learned Counsel appearing for the first respondent.

6. The petitioner had claimed subsistence allowance before the Assistant Commissioner of Labour and the same was granted. Aggrieved over the management had preferred appeal and the same was dismissed. However, the petitioner and the Management has entered into settlement terms, wherein the petitioner had given up the subsistence allowance and the petitioner were taken into service as new appointee. Again, there was loss and again the petitioner was suspended from service again there was settlement terms, wherein the petitioner had given up the backwages. Finally the petitioner unauthorizedly absented from service for nearly 20 days from 10.04.1997 to 30.04.1997

7. The contention of the petitioner that the Labour Court ought to have decided the issue of reinstatement since as per the
<https://www.mca.gov.in/licenses/> the petitioner was allowed to continue in service.



However, the Labour Court has held that the petitioner has resigned on 20.09.1992 from service which was not disclosed by the petitioner before the Labour Court. The petitioner without disclosing the resignation has filed the petition before Labour Court as if he is under suspension and hence the Labour Court has dismissed the petition. Moreover it is seen that the petitioner has indulged in so many irregularities and caused loss to the management. Hence this Court is of the considered view that the Labour Court has rightly dismissed the case and there is no merit in the case.

8. Hence the Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

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Sankarankovil Taluk,
Tirunelveli District.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

Order made in

W.P. (MD)No.16302 of 2013

15.12.2021

KK(CO)

GC(21.01.2022) 3P 3C