



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2021

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.17278 of 2013

and

M.P.(MD)No.1 of 2013

WEB COPY

The Management,
A-1255, Pallapatti Primary Agricultural
Co-operative Credit Society,
represented through by its President,
Pallapatti, Nilakkottai Taluk,
Dindigul District.

... Petitioner

vs.

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

2.K.Sekar

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order passed by the first respondent made in Appeal T.N.S.E.No.7/2012,dated 07.05.2013 and to quash the same.

For Petitioner : Mr.R.Saravanan

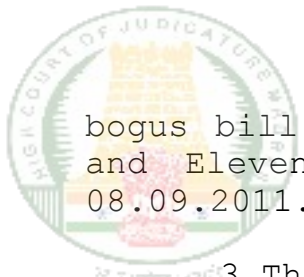
For R-1 : No representation

For R-2 : M/s.S.M.Mohan Gandhi

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records of the impugned order passed by the first respondent made in Appeal T.N.S.E.No.7/2012,dated 07.05.2013 and to quash the same.

2.The second respondent was working in the petitioner Cooperative Credit society as Salesman. The petitioner was placed under suspension on 15.03.2011 and a charge memo was issued on 16.06.2011. The charges are framed for misappropriation to the tune of Rs.4,307.50/- (Rupees Four Thousand Three Hundred and Seven and Fifty Paise) deficit of stock tune of Rs.25,148/- (Rupees Twenty Five Thousand One Hundred and Fourty Eight only) and for creating



bogus bill and imposed penalty for Rs.1,011/- (Rupees One Thousand and Eleven only). The petitioner submitted an explanation on 08.09.2011.

3.The second respondent admitted the charges. An enquiry was conducted and in the enquiry report, except for the four charges, other charges are held to be proved. Therefore, a second show cause notice was issued on 18.01.2012. The second respondent submitted a reply on 20.01.2012. Thereafter, the second respondent was dismissed from service, vide order, dated 25.01.2012.

4.Challenging the same, the second respondent preferred a petition under Section 41 of Tamil Nadu Shops and Establishment Act in Appeal T.N.S.E.No.7 of 2012. After hearing the arguments, the Labour Court has set aside the dismissal order and allowed the appeal, vide order, dated 07.05.2013. Aggrieved over the same, the Society has filed this Writ Petition.

5.Heard Mr.R.Saravanan, learned Counsel appearing for the petitioner and M/s.S.M.Mohan Gandhi, learned Counsel appearing for the second respondent.

6.While hearing this Writ Petition, the learned Counsels appearing on both sides agreed that the second respondent was reinstated as per the order of the Labour Court. However, the reinstatement was subject to the result of the Writ Petition. The Management has also submitted that a criminal case was filed against the second respondent for the third charge, where he has taken the rice and dal from the shop on 11.03.2011, for selling at a private place. Since the Labour Court has dealt elaborately with the evidence, this Court sitting under Article 226 of the Indian Constitution cannot rephrase the evidence. Since the second respondent was reinstated, to meet the ends of justice, the reinstatement shall continue until the disposal of the criminal proceedings for the third charge.

7.With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

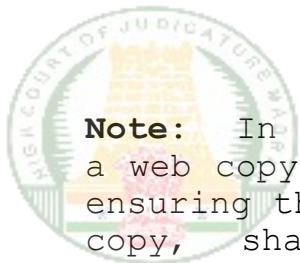
Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Tmg



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.

WEB COPY

TO:

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

+1 CC to M/s.R.SARAVANAN, Advocate (SR-38020[F] dated 09/12/2021)

W.P. (MD) No.17278 of 2013
09.12.2021

RD(23.12.2021) 3P 3C