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W.P.Nos.29501 of 2010 & 5984 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.Nos.29501 of 2010 & 5984 of 2011

C.K.Chinnaraj

... Petitioner
in W.P.No.29501 of 2010

The Management,
Tiruvannamalai Co-operative
Primary Agricultural and Rural
Development Bank Ltd.,
Represented by its Secretary,
Tiruvannamalai.

... Petitioner
in W.P.No.5984 of 2011

Vs.

1.The Presiding Officer,
Additional Labour Court,
Vellore.

2.The Management,
Tiruvannamalai Co-operative Primary
Agricultural and Rural Development Bank Ltd.,
No.73, Krishnan Street,
Tiruvannamalai - 606 601.

... Respondents
in W.P.No.29501 of 2010

1.The Presiding Officer,
The Additional Labour Court,
Vellore, Vellore District.

2.C.K.Chinnaraj

... Respondents
in W.P.No.5984 of 2011



W.P.Nos.29501 of 2010 & 5984 of 2011

Prayer in W.P.No.29501 of 2010: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 1st respondent in I.D.296 of 2002 dated 09.08.2010 and quash the same in so far as the denial of 50% backwages is concerned and direct the 2nd respondent to pay full backwages to the petitioner with effect from 22.05.1998 to 30.06.2008 with all consequential benefits thereof and further pay subsistence allowance/full waged from 16.04.1996 to 22.5.1998 with 12% interest.

Prayer in W.P.No.5984 of 2011: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in pursuant to the order dated 08.03.2010 and consequential award dated 09.08.2010 in I.D.No.296 of 2002 quash the same.

For Petitioner : Mr.R.D.Ashok Kumar
for Mr.S.N.Ravichandran
in W.P.No.29501 of 2010

: Mr.P.K.Shivakumar
in W.P.No.5984 of 2011

R1 : Labour Court
in both writ petitions

For R2 : Mr.P.K.Shivakumar
in W.P.No.29501 of 2010

: Mr.R.D.Ashok Kumar
for Mr.S.N.Ravichandran
in W.P.No.5984 of 2011



W.P.Nos.29501 of 2010 & 5984 of 2011

COMMON ORDER

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These two writ petitions are filed by the Management as well as the employee as against the Award of the Labour Court in I.D.No.296 of 2002 dated 09.08.2010. The petitioner in W.P.No.29501 of 2010 is the employee, whereas, the petitioner in W.P.No.5984 of 2011 is the Management, namely Tiruvannamalai Co-operative Primary Agricultural and Rural Development Bank Ltd.

2.The petitioner in W.P.No.29501 of 2010 was working as a Clerk in the Co-operative Bank, namely the petitioner in W.P.No.5984 of 2011. While the employee was in service, the following charges were levelled as against him :

"தற்காலிக பணி நீக்கத்திலுள்ள வங்கி எழுத்தர் திரு.சி.கே.சின்னராஜ், வங்கியின் முன்னாள் தனி அலுவலர் திரு.இரா.கண்ணப்பன் அவர்களை, அவர் தம் தனி அலுவலர் பணி காலத்தில், தனி அலுவலருக்குரிய ஒழுங்கு முறையான கடமையை செய்யும் போது தடுத்து நிறுத்தி, தரக்குறைவாக பேசி, பயமுறுத்தி, அவர் தம் கடமையை ஆற்ற இயலாத நிலையை ஏற்படுத்தி இருந்துள்ளார்."



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3.An enquiry was conducted and an order was passed by the Management dismissing the employee from service. The order of termination was challenged by the employee before the Labour Court in I.D.No.296 of 2002. The Labour Court, after finding that the enquiry conducted by the Management was not in accordance with law, held that the order of punishment cannot be sustained. Since the petitioner retired from service, the Labour Court held that the relief of reinstatement in service cannot be granted. However, the Labour Court, while setting aside the order of termination, directed payment of 50% of backwages with continuity of service and all other attendant benefits. Aggrieved by the same, the Management as well as the employee have filed the above writ petitions.

4.Even though the charges are held to be proved during enquiry and the employee was terminated from service, the employee challenged the same before the Labour Court on the ground that the enquiry was not properly conducted and there was violation of principles of natural justice while concluding that the petitioner was guilty of charges. Before the Labour Court, the employee has raised several grounds, but the primary ground is that the dismissal of employee from service is contrary to



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principles of natural justice and that no subsistence allowance was paid during the pendency of domestic enquiry. From the grounds raised before the Labour Court, the main grievance expressed by the employee was that he was not given sufficient opportunity and that the domestic enquiry was proceeded against the petitioner by treating him *ex parte* and without following the procedure. It is also stated that the order of termination is vindictive and the allegations against the employee were not on the basis of any materials.

5.The Labour Court Award itself gives an indication that there was domestic enquiry and that the punishment of dismissal was on the basis of conclusions reached by the Enquiry Officer. The charges framed against the petitioner are very serious. It was only the petitioner who did not co-operate during enquiry and therefore, the Enquiry Officer found that the charges are proved. The Management has accepted the enquiry report. In view of the specific reasons stated by the Management, this Court is of the view that the contention of the employee that no opportunity was given to him during domestic enquiry cannot be accepted. The employee had attained superannuation and therefore, the Labour Court did not grant the relief of reinstatement. However, the Labour Court awarded 50% of the backwages



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considering various circumstances, particularly the fact that the employee has failed to plead about his non-employment. Even though the Labour Court has not given specific reasons as to why 50% of backwages had been denied to the writ petitioner, this Court, having regard to the fact that the petitioner has not come forward to establish his non-employment, is unable to interfere with the order of the Labour Court granting limited relief. The Labour Court found that the Enquiry proceedings are vitiated for violation of principles of natural justice. Before the Labour Court, the Management has filed several documents to show fairness in the departmental proceedings. However, from the Award, the Labour Court did not independently consider the evidence adduced by the Management. Remanding the matter at this length of time will cause great hardship to both sides. The employee is now retired.

6.In view of the foregoing reasons, this Court is not inclined to interfere with the Award of the Labour Court. Therefore, both the writ petitions are dismissed. No costs.

7.It is admitted that 20% of the Award amount as directed by the Labour Court has been paid by the Management to the employee. The



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S.S. SUNDAR, J.

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