



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.9762 of 2015

The Management,
C2075 Chakkaramallur Primary
Agricultural Co-operative Credit Society,
Rep. by its President,
Chakkaramallur, Arcot Taluk,
Vellore District.

...Petitioner

-Vs-

1.R.Jeevarathinam

2.The Principal Labour Court,
Vellore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records in I.D.No.39 of 2013 dated 12.06.2014 on the file of the second respondent herein and quash the same.

For Petitioner : Mr.P.S.Sivashanmugasundaram
For R1 : Mr.S.N.Ravichandran
For R2 : Court

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The charge against the first respondent herein is that he had colluded with other staff members and Secretary of the Society and misappropriated a sum of Rs.15,000/- through a cheque dated 08.05.2003, another sum of Rs.2,86,500/-, through a cheque dated 22.04.2003 and a sum of Rs.2,17,000/-through a cheque dated 02.06.2003. The first respondent was employed as a Cashier in the petitioner-Society. It is the allegation of the Society that as a Clerk, he had not brought the relevant entries regarding the cash transactions in the cash book maintained by him. Based on the charges, the first respondent was subjected to



an enquiry and on the basis of proven charges, he was dismissed from service on 29.03.2012. Challenging the dismissal, the first respondent had raised an Industrial Dispute in I.D.No.39 of 2013 before the Principal Labour Court, Vellore. By the impugned award dated 12.06.2014, the petitioner was directed to reinstate the first respondent back into service, together with back wages, continuity of service and all other attendant benefits. This award is put under challenge in the writ petition.

3. The first respondent herein, being a Cashier, is imposed with a duty and responsibility of daily collection for the Society and such collections require to be recorded by him in the register maintained by him. The claim of the petitioner-Society is that he ought to have checked the pass books of the Society and questioned the encashment made by the Society for the cheques issued by them and on such allegation, he is charged to have involved in a misconduct.

4. The Labour Court, after analysing the fairness of the enquiry, found that the domestic enquiry was not conducted in a fair and proper manner. Accordingly, the management as well as the first respondent herein were permitted to let in oral and documentary evidences on either side. On the basis of the materials on record, the Labour Court had found that, in consideration of the duties entrusted to the first respondent, he cannot be implicated for colluding in misappropriation of funds with other persons, who had realised the amounts from the Co-operative Bank. It was also the finding of the Labour Court that the dismissal order was challenged within the period of 3 years and therefore had rejected the plea of the petitioner-Society in this regard. In the light of the oral and documentary evidences before the Labour Court, all these findings have been rendered.

5. It is a settled proposition of law that in all cases of wrongful termination, the concerned workman is entitled for payment of back wages with continuity of service. One such proposition has been laid down by the Hon'ble Supreme Court in the case of Deepali Gundu Surwase V. Kranti Junior Adhyapak Mahavidyalaya (D.ED.) and others reported in 2013 (10) SCC 324. As such, the award of the Labour Court, granting payment of full back wages with continuity of service while granting reinstatement, cannot be found fault with.

6. Since there is no infirmity in the award of the Labour Court, the present Writ Petition stands dismissed. No costs.



7. At this juncture, the learned counsel for the petitioner submitted that pursuant to the interim order of this Court, a portion of the back wages, as ordered in the award, is lying in deposit before the Labour Court, Vellore.

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8. In view of the final orders passed in this writ petition, the petitioner-Society shall pass appropriate orders, directing reinstatement of the first respondent, by extending all the benefits ordered in the award of the Labour Court, along with accrued interest. The first respondent is also at liberty to file an appropriate application before the concerned Labour Court, seeking for withdrawal of the amount lying in deposit and on receipt of such an application, the Labour Court shall endeavour to pass orders permitting the first respondent to withdraw the amount, preferably on the same day the application is made.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

hvk
To

1. The Principal Labour Court,
Vellore.

+1 CC to Mr.S.N.Ravichandran, Advocate sr 25627.

W.P.No.9762 of 2015

AK(CO)
SP(27/04/2022)