



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 11.04.2022

DELIVERED ON : 02.06.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.4806 of 2018

and

W.M.P. (MD) .No.4820 of 2018

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A 1235, Madurai Taluk Agricultural Producers,
Co-operative Marketing Society Limited,
Represented by its Secretary,
Mugugesan 31, Visuvasapuri 3rd Street,
Ganaoliapuram,
Madurai - 625 016.

... Petitioner

Vs

1.K.Dharmalingam

2.The Presiding Officer,
Labour Court,
Madurai.

... 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 dated 28.08.2014 passed by the second respondent in I.D.No.80 of 2012 and quash the same.

For Petitioner : Mr.A.Banumathy

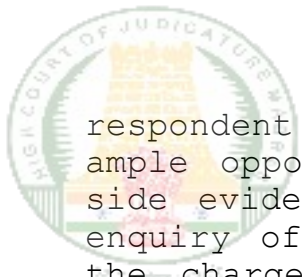
For R-1 : No Appearance

For R-2 : Labour Court

O R D E R

This Writ Petition has been filed to quash the impugned order passed in I.D.No.80 of 2012.

2. The brief facts of the case are that the first respondent was a Salesman in a Ration Shop under the control of Periapatti Primary Co-operative Bank. The first respondent was placed under suspension and was charged for his misconduct of unauthorized absence from duty without giving any leave letter or prior permission and misappropriated Rs.2,496.45/- in Kavanur Ration Shop and 2,326.20/- in Chinnalapatti Ration Shop. On 06.04.2006, a charge memo was issued through registered post and the same was returned as 'un-served'. Domestic Enquiry was conducted on 06.06.2006. 17 documents were marked but the first



respondent did not choose to cross examine the witness inspite of ample opportunity. The first respondent examined himself as his side evidence and cross examined by the petitioner Society. The enquiry officer submitted his findings on 11.09.2006 holding that the charges are proved. A second show cause notice along with enquiry report was issued to the first respondent on 23.09.2006. In the meanwhile, the first respondent misbehaved unruly on 09.06.2006 around 3 pm under the influence of alcohol by threatening the Secretary of the petitioner's Society and also shows knife towards the Salesman and threatened to kill him by pouring kerosene. Another charge memo was issued and an enquiry was conducted and the enquiry report vide dated 06.10.2006 held that the charges are proved. A second show cause notice was issued on 09.10.2006. Since the misconduct was highly serious in nature, the resolution was passed on 07.11.2006 and an order of dismissal was passed on 08.11.2006. The contention of the petitioner's Society is that the first respondent has admitted all the guilt and inspite of the same, the Labour Court awarded on 28.08.2004 whereby the punishment of dismissal was modified as stoppage of increment for three years with cumulative effect and directed the petitioner's Society to reinstate the first respondent with continuity of service and the period from 09.11.2006 to 20.11.2011 was deducted from the continuity of service and back wages and other benefits are rejected. Aggrieved over by this order, the petitioner's Society has filed this Writ Petition.

3. The first respondent has not filed any counter and there is no appearance either in person or through an Advocate.

4. Heard Mr.A.Banumathy, learned counsel for the petitioner and there is no appearance on behalf of the first respondent and peruse the records.

5. On perusal of the Labour Court award it is seen that the petitioner's Society has conducted an enquiry and the findings are based on the admission of guilt and the loss caused was reimbursed by the first respondent. The writ petition was filed raising two grounds alone one is the first respondent has admitted the guilt and another is he has reimbursed the misappropriated amount. The charges against the first respondent are unauthorized absence and misappropriation to the tune of Rs.2,496.45/- in Kavanur Ration Shop and 2,326.20/- in Chinnalapatti Ration Shop. There is no evidence to prove the misappropriation allegations and the petitioner's society has not independently analyzed the charges. The Labour Court has rightly come to the conclusion that the punishment is disproportionate.

6. Therefore this Court is of the considered opinion that the modified punishment of stoppage of increment for three years without cumulative effect awarded by the Labour Court is proportionate punishment and therefore no grounds raised to interfere with the



order. Hence the Writ Petition is dismissed confirming the order of the Labour Court. If the petitioner has not implemented the order, the petitioner's Society is directed to implement the order within a period of four (4) weeks from the date of receipt of a copy of this order.

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7. With the above observations, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Vacation Officer/
Assistant Registrar(Records)

// True Copy //

/ /2022
Sub Assistant Registrar(CS)

Nsr

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.

To

1.The Presiding Officer,
Labour Court,
Madurai.

2. The Section Officer,V.R.Section,
Madurai Bench of Madras High Court, Madurai.(2 copies)

Order made in
W.P. (MD)No.4806 of 2018
02.06.2022

nsn(CO)
TR(10.06.2022) 3P 4C