



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.23638 of 2015

and

M.P. (MD)No.1 of 2015 and

W.M.P. (MD)No.5137 of 2016

The Management,
Q-1066, Rajapalayam Consumer-
Co-operative Whole Sale Stores Limited,
represented by its Managing Director,
No.346, P.A.C.R. Salai,
Bharathi Nagar, Rajapalayam,
Virudhunagar District.

... Petitioner

vs.

1.M.Muthuselvam

2.The Presiding Officer,
Labour Court, Madurai.

... Respondents

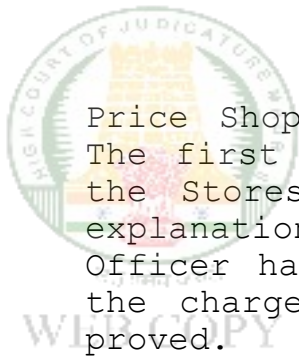
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the award passed in I.D.No.82/2001, dated 29.05.2015, by the 2nd respondent, Labour Court, Madurai and to quash the same.

For Petitioner	: Mr.D.Shanmugaraja Sethupathi
For R1	: Mr.S.Balamurugan
For R2	: Labour Court

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records relating to the award passed in I.D.No.82/2001, dated 29.05.2015, by the 2nd respondent, Labour Court, Madurai and to quash the same.

2.The brief facts of the case are that the first respondent was working as Salesman in the Fair Price Shop run by the petitioner Stores. The Co-operative Sub-Registrar made a surprise spot inspection on 08.06.1993 and 09.06.1993 and found that the first respondent prepared bogus bills and fabricated false 'A' Register as if the essential commodities were distributed to the card holders, but actually the commodities were not distributed. The Inspection Report was communicated to the Deputy Registrar (P.D.S) by report, dated 20.11.1992. While he was working at Branch No.69, for the period between 10.06.1992 and 30.06.1992, it was found that deficit is to the tune of Rs.18,443/- and the same was caused by the first respondent. He has committed similar misappropriation in many Fair



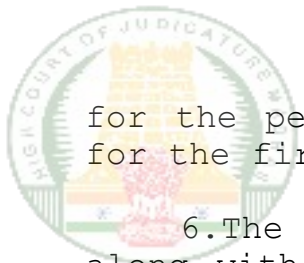
Price Shops run by the petitioner Stores on number of occasions. The first respondent was issued charge memo by Special Officer of the Stores on 02.01.1995 and the first respondent submitted his explanation, dated 02.01.1995, an enquiry was conducted, the Enquiry Officer has submitted his findings, dated 18.06.1995, holding that the charges framed against the first respondent was found to be proved.

3. On the basis of the findings given by the Enquiry Officer, second show cause notice, dated 30.06.1995, was issued to the first respondent and the first respondent failed to submit his explanation. After perusal of the records the disciplinary authority came to the independent conclusion that the charges leveled against the first respondent was proved. Since the charges against the delinquent were grave in nature, the first respondent was terminated from service with effect from 23.01.1996. Aggrieved over the dismissal from service, the first respondent raised an Industrial Dispute in I.D.No.82 of 2001. The Labour Court passed an award directing the Management to pay a sum of Rs.2,50,000/- as compensation and also directed to pay the terminal benefits as if the delinquent employee was deemed to have been retired on the date on which he was dismissed in pursuance of the disciplinary proceeding. Aggrieved over the Labour Court award, the present Writ Petition is filed.

4. The first respondent filed a counter affidavit stating that this Court has granted interim stay on condition that the petitioner management deposits Rs.2,50,000/- to the credit of I.D.No.82 of 2001, within 8 weeks and on such deposit being made, the first respondent employee is permitted to withdraw Rs.1,00,000/- and balance amount shall be kept in fixed deposit and the first respondent is permitted to withdraw interest on balance amount once in three months directly from the bank. The management preferred a Writ Appeal in W.A.(MD)No.225 of 2016 against the said conditional interim order and the same was dismissed on 16.02.2016. Thereafter, the management deposited a sum of Rs.2,50,000/- in compliance of the interim order, dated 04.01.2016. The first respondent withdrawn a sum of Rs.1,00,000/- and the balance amount of Rs.1,50,000/- is lying in the bank deposit. The counter also states that the first respondent never committed any misappropriation of money or never committed any irregularity. Based on the oral and documentary evidence, the Labour Court also came to the conclusion that the charges are not proved and also directed to grant other monetary benefits since the first respondent was retired from service. Because of the pending Writ Petition along with interim order the 1st respondent was not in a position to get the benefits of the Labour Court order. Hence, the first respondent prayed to dismiss the Writ Petition.

5. Heard Mr.D.Shanmugaraja Sethupathi, learned Counsel appearing

<https://hcservices.ecourts.gov.in/hcservices/>



for the petitioner and Mr.S.Balamurugan, learned Counsel appearing for the first respondent.

6.The Labour Court has granted a compensation of Rs.2,50,000/- along with the terminal benefits. It is submitted that since the first respondent is not having a pensionable service, he is entitled to the terminal benefits which will be very less. Therefore, taking into consideration of this submission, this Court is confirming the order with the slight modification. The petitioner is directed to pay the said Rs.2,50,000/-. However, the first respondent is not eligible for terminal benefits. The first respondent submitted that it is lying in bank deposit and with accrued interest, hence the first respondent is permitted to withdraw the said amount.

7.With this modification, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2022

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.

To

The Presiding Officer,
Labour Court, Madurai.

+1 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-16579[F] dated 05/04/2022)

+1 CC to M/s.S. BALAMURUGAN, Advocate (SR-16567[F] dated 05/04/2022)

W.P.(MD)No.23638 of 2015
04.04.2022

RD(26.04.2022) 3P 4C