



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.8318 of 2016

and

W.M.P. (MD)Nos.6740 & 6741 of 2016

S.Rani Renganayagi

... Petitioner

vs

1. The Presiding Officer,
Labour Court,
District Court Campus,
Tiruchirappalli.

2. The Management,
Thiruchirappalli District Amaravathi
Consumer Cooperative Whole Sale Stores Ltd.,
R 683 through its Managing Director,
Thiruchirappalli,
Thiruchirappalli Post and District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records from the first respondent and impugned award made in I.D.No.77 of 2014, dated 02.03.2016 and quash the same, and directing the second respondent to reinstatement with back wages and all other benefits.

For Petitioner : Mr.G.C.Pethanaraj

For Respondents : Labour Court for R1

Mr.G.Moahnkumar for R2

O R D E R

The petitioner has challenged the impugned order passed by the Labour Court in I.D.No.77 of 2015, dated 02.03.2016 and consequential prayer to direct the respondents to reinstate with back wages and other benefits.

2. The petitioner was appointed as Helper in the second respondent Cooperative Whole Sale stores on 26.05.1980. The petitioner was working as Salesman in additional charges for the past 19 years. The petitioner was transferred as salesman to the



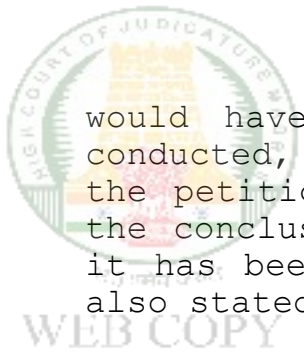
Fair Price Shop No.3 from 01.12.2009. While serving in the said shop, an inspection was carried out and it was found some irregularities in the 'B' register as well as in Ration Cards. On the basis of the report, the petitioner was placed under suspension on 28.04.2010. Prior to the transfer to the said place, one Narayanasamy was working from 01.10.2009 to 30.11.2009. A Charge Memo, dated 17.08.2010 was issued and the petitioner submitted an explanation on 13.09.2010. In the enquiry report, dated 03.12.2010, the third charge was held not proved and the other two charges were held proved.

3. The contention of the petitioner is that the earlier incumbent, namely, Narayanasamy was not alleged for any irregularities. In spite of his serving in the said place, the contention of the petitioner is that she was victimized. The second respondent has issued a second show cause notice, dated 03.12.2010 for imposing major punishment. The petitioner submitted an explanation and also appeared in person explaining the difficulties and wrong entries. Without accepting the explanation, the petitioner was imposed to the punishment of terminating from service, vide order, dated 20.01.2011. The petitioner raised an I.D under Section 2A (i) of Industrial Dispute Act and the Labour Court has confirmed the punishment. Aggrieved over the confirmation, the present writ petitioner is filed.

4. The respondents relied on the counter submitted before the Labour Court and also the evidence submitted before the Labour Court.

5. Heard Mr.G.C.Pethanaraj, learned Counsel appearing for the petitioner and Mr.G.Moahnkumar, learned Counsel appearing for the respondents.

6. The contention of the petitioner is that she was a single person appointed to manage Fair Price Shop. There were more than 1,755 Card Holders who are receiving materials from the Fair Price Shop. In order to maintain such huge number Card Holders, where there are more than 1000 card holders, the petitioner cannot make proper entries. Even according to the respondent's circular, if there are more than 1,000 Card Holders, two persons should be appointed to Fair Ration Shop. The contention of the petitioner is that since it is more than 1,755 Card Holders, the respondents ought to have granted one more person to manage the said Fair Price Shop. The discrepancies are because of the work load and due to work pressure certain entries are not proper. Moreover, in the Charge Memo, it has been stated that the Rice, Wheat, Sugar and Pulses are not maintained properly, but it is not stated whether there is excess material or whether there is deficiency in the material. The respondents submitted that in spite of work pressure, the petitioner is supposed to maintain the records properly. If there is a



would have sold it to the open market. When the enquiry was conducted, the petitioner could have explained certain things, but the petitioner failed to do so. Even the Labour Court has come to the conclusion that the evidence is not necessary to prove whether it has been sold in the open market or not. The labour Court has also stated that it is manipulation of records.

7. After perusing the affidavit and the materials placed on record, this Court is of the considered opinion that the respondents had made an allegation against the petitioner that there is a deficiency in the materials, but they have not stated clearly whether it is in less amount or there are more stocks. For the misappropriation allegation, presumption cannot be the evidence to prove the allegation. Admittedly, some stocks are not there, but whether it is due to not maintaining of records or whether the petitioner has taken the said stocks was not clearly proved by the respondents. Taking the petitioner's age into consideration, this Court is of the considered opinion that the punishment shall be modified to stoppage of increment for three years without cumulative effect.

8. Therefore, this Court is passing an order that the petitioner shall be imposed with a punishment of stoppage of increments for three years without cumulative effect. The petitioner is not entitled to the back wages under the principle of "no work no pay" for the period of non employment and the petitioner is entitled to continuity of service for the purpose of calculating the gratuity amount.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The Presiding Officer,
Labour Court,
District Court Campus, Tiruchirappalli.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-10470[F] dated 07/03/2022)

Order made in
W.P. (MD)No.8318 of 2016
03.03.2022

JBR

<https://hccs1.ecourts.gov.in/cases/149/31200302022/3C>