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W.P.No.16299 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2023

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.16299 of 2011

M.Ezhumalai

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Cuddalore.

2.The Management,
Nolambur Primary Agricultural
Co-operative Bank,
Nolambur Post,
Tindivanam Taluk,
Villupuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records on the file of the learned Presiding Officer, Labour Court, Cuddalore, relating to the order passed in I.D.No.143 of 2003, dated 21.03.2011 and quash the same.

For Petitioner : Mr.C.Prakasam

R1 : Court

For R2 : Mr.N.Suresh



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ORDER

This writ petition is filed by the employee of the 2nd respondent- Primary Agricultural Co-operative Bank. The petitioner was working as a Night Watchman in the 2nd respondent Co-operative Bank from 04.06.1987. A charge memo was issued to the petitioner on 05.11.1999 to the effect that he was hand-in-glove with the Secretary and the other staff of the Co-operative Bank for loss of materials belongs to the Co-operative Bank. After holding domestic enquiry and considering the enquiry report, the 2nd respondent dismissed the petitioner from service on 13.09.2002. The petitioner, thereafter, raised an Industrial Dispute in I.D.No.143 of 2003 before the 1st respondent. Before the Labour Court, the main point for consideration was whether the domestic enquiry held against the writ petitioner was fair and proper. The Labour Court, after finding that the enquiry conducted by the 2nd respondent was in adherence to the principles of natural justice, held that the punishment is appropriate, having regard to the proved charges against the petitioner.

2. Aggrieved by the Award of the Labour Court, the petitioner/employee has preferred the above writ petition.



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3.Learned counsel appearing for the writ petitioner submitted that the Management/2nd respondent has given a criminal complaint against the petitioner and the same was taken on file in C.C.No.166 of 1992. The learned Judicial Magistrate No.1, Tindivanam, by the order dated 21.04.2009 in C.C.No.166 of 1992, acquitted the petitioner from the offences alleged against the petitioner under Sections 468, 471, 477-A and 408 IPC.

4.The petitioner is one of the accused in a criminal case, which was booked for offences under Sections 468, 471, 477-A and 408 IPC. Though the petitioner was roped in the criminal case as a person who has accompanied the other accused for causing loss by misappropriation, the charges against the petitioner in the charge memo are slightly different. Therefore, this Court is unable to find any relevance to the judgment of the learned Judicial Magistrate No.1, Tindivanam, in C.C.No.166 of 1999. Even though the petitioner, as an employee, is acquitted from the criminal case, the charges against him are serious and the acquittal is not honourable, the Management is entitled to proceed against the petitioner departmentally. The standard of proof in a criminal case should be beyond reasonable doubt, but it is possible for the Management to inflict punishment for alleged charges, in case the misconduct is established by preponderance of probabilities.



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5. Therefore, in this case, the Labour Court has carefully considered the facts and evidence in detail. The findings of the Labour Court that the proceedings initiated against the petitioner was in compliance of natural justice and that every opportunity was given to the petitioner while defending the charge during domestic enquiry, are unassailable. Since the 2nd respondent-Management produced sufficient materials to prove the misconduct of misappropriation alleged against the petitioner, the Labour Court found that the petitioner has committed grave misconduct of misappropriation and has lost the confidence of the Management and that therefore, he is not entitled to any relief. This Court is unable to find any error or irregularity in the decision or decision making process.

6. Hence, this writ petition is devoid of merits and accordingly, dismissed. No costs.

10.01.2023

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Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To
<https://www.mhc.tn.gov.in/judis>



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