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W.P.Nos.8043 and 8071 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.Nos.8043 and 8071 of 2018

and

W.M.P.Nos.10024 & 10049 of 2023

The Managing Director
Kancheepuram Central Co-op. Bank Ltd.,
15G, Sheikpet North Street,
Kancheepuram-631 501.

... Petitioner in both the petitions

Vs.

1. Appellate Authority Under the Tamil Nadu Shops &
Establishments Act / Deputy Commissioner of Labour,
(Minimum Wages), D.M.S. Compound,
Chennai-600 006.

...1st respondent in both the writ petitions

2. A.John Batcha

... 2nd Respondent in W.P.no.8043 of 2018

2. K.Perumal
2018

... 2nd Respondent in W.P.no.8071 of

Prayer in W.P.No.8043 of 2018: Writ Petition filed under Article 226 of the
Constitution of India for issuance of a Writ of Certiorarified Mandamus
Calling for the records culminating in the order of the first respondent dated



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28.08.2017 made in TNSE II 6/2017 and quash the same and consequently direct the first respondent to re open the proceedings on the file in TNSE II 6/2016 to be continued as per law by providing a fair and reasonable opportunity to this petitioner / respondent.

Prayer in W.P.No.8071 of 2018: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus Calling for the records culminating in the order of the first respondent dated 28.08.2017 made in TNSE II 4/2016 and quash the same and consequently direct the first respondent to re open the proceedings on the file in TNSE II 4/2016 to be continued as per law by providing a fair and reasonable opportunity to this petitioner / respondent.

In Both W.P.s

For Petitioners : Mrs.G.Thilagavathy, Sr.C.

For Respondents : Mr.M.S.Prem Kumar, GA R1
Mr.B.Haribabu R2
for W.P.No.8043 of 2017
Mr.S.Sathish Kumar R2
for Rao & Reddy
For W.P.no.8071 of 2018

COMMON ORDER

Since the issue involved in the present writ petitions are one and the



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same they are disposed of by way of this common order.

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2. The writ petitions have been filed seeking to quash the order of the first respondent dated 28.08.2017 made in TNSE II 6/2017 and consequently, direct the first respondent to re-open the proceedings on the file in TNSE II 6/2016 to be continued as per law by providing a fair and reasonable opportunity to this petitioner / respondent.

3. It is the case of the petitioner that the second respondent in both the cases are workmen and they have been employed with the petitioner Management and they were dismissed from service on the allegation that they committed misappropriation of the petitioner fund. Challenging the said dismissal order, the workmen filed a petition under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947. Without providing sufficient opportunity to the petitioner, the Labour Court has allowed the petition and directed the petitioner to reinstate the workmen to service. Challenging the same, these writ petitions have been filed.

4. The learned counsel for the petitioner submitted that before the



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Labour Court, the petitioner has set ex-party. This Court may set aside the impugned order and remand the matter back to the authorities for fresh consideration.

5. The learned counsel for the second respondent have also not raised any objection in this regard.

6. In view of the consent view expressed by the learned counsel on either side, this Court sets aside the impugned order passed by the first respondent and remands the matter back to the first respondent for fresh consideration. The first respondent is directed to consider the same and pass appropriate orders, on merits and in accordance with law, after providing opportunity to the petitioner as well as the second respondent, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With these terms, these writ petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

07.09.2023



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Index : Yes / No

Speaking order / Non speaking order

Netrual Citation Case : Yes / No

To

Appellate Authority Under the Tamil Nadu Shops &
Establishments Act / Deputy Commissioner of Labour,
(Minimum Wages), D.M.S. Compound,
Chennai-600 006.



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M.DHANDAPANI, J.

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