



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.Nos.10949 & 10950 of 2005

and

W.P.No.274 of 2006

and

W.P.M.P.No.35820 of 2005 and W.P.M.P.No.11911 of 2005

W.P.No.10949 of 2005

The Management,
Salem Agricultural Producers
Cooperative Marketing Society,
305, Sooramangalam Main Road,
Salem.

.... Petitioner

VS

1. The Presiding Officer,
Labour Court, Salem.

2. N.Easwaramoorthy (deceased)

3. Muthulakshmi,
W/o Easwaramoorthy (late)

R3 substituted as Legal representative
in the place of deceased respondent(R2)

1/11



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

as per order dated 30.01.2015
by TRJ in WPMP.No.8/2015 in W.P.10949/2005 Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for the records to the award of the first
respondent dated 10.08.2004 in I.D.No.346/99 and quash the same.

For Petitioner : Mr.A.S.Vijayaraghavan

For respondents : R1-Court.
R2- died
Mr.V.Gangatharan for R3

W.P.No.10950 of 2005

The Management,
Salem Agricultural Producers
Cooperative Marketing Society,
305, Sooramangalam Main Road,
Salem 636 009.

.... Petitioner

VS

1. The Presiding Officer,
Labour Court, Salem.
2. T.Adhikesavan (deceased)
3. S.Vijayalakshmi
W/o Late T.Adhikesavan
- 4.A.Senthilkumar,
S/o Late T.Adhikesavan



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

WEB COPY

5. S.Jayachitra,
D/o Late. T.Adhikesavan

5. S.Sujatha Ramreswara Swaminathan
D/o Late T.Adhikesavan

7. Lavanyapriya,
D/o Late T.Adhikesavan

R3 to R7 are legal heirs of the
deceased T.Adhikesavan
substituted as legal heirs in the
place of the the deceased respondent (R2)
as per order dated 30.01.2015 by TRJ
in WPMP.9/2015 in W.P.10950/2005

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for the records to the award of the first
respondent dated 10.08.2004 in I.D.No.406/2000 and quash the same.

For Petitioner : Mr.A.S.Vijayaraghavan

For respondents : R1-Court.
R2- died
Mrs.S.Girija for R3 to R7

W.P.No.274 of 2006

1. T.Adhikesavan (deceased)



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

2. S.Vijayalakshmi
W/o Late T.Adhikesavan

3.A.Senthilkumar,
S/o Late T.Adhikesavan

4. S.Jayachitra,
D/o Late. T.Adhikesavan

5. S.Sujatha Ramreswara Swaminathan
D/o Late T.Adhikesavan

6. Lavanyapriya,
D/o Late T.Adhikesavan

P2 to P6 substituted as the legal heirs
in the place of deceased petitioner
as per order dated 28.11.2014 by DHPJ
in WPMP.241/2014 in W.P.274/2006

.... Petitioners

vs

1. The Presiding Officer,
Labour Court, Salem.

2. The Management,
Salem Agricultural Producers
Cooperative Marketing Society,
305, Sooramangalam Main Road,
Salem 636 009.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari filed Mandamus to call for the records connected



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

with the award dated 10.08.2004 passed by the 2nd respondent in I.D.No.406/2000 and quash the same insofar as it relates to the denial of the petitioner's backwages and direct the 1st respondent/Management to pay all the petitioner's backwages and other attendant benefits.

For Petitioner : Mrs.S.Girija

For respondents : R1-Court.
Mr.A.S.Vijayaraghavan for R2

COMMON ORDER

W.P.Nos.10949 & 10950 of 2005 have been filed by the petitioner Management challenging the award passed by the Labour Court, in which, the Labour Court has directed the petitioner Management to reinstate the 2nd respondents into service with continuity of service only and denying backwages and other benefits. W.P.No.274 of 2006 has been filed by the workman/2nd respondent in W.P.No.10950/2005, challenging the award of the Labour Court insofar as it relates to denial of backwages and direct the 1st respondent Management to pay all backwages and other attendant benefits.

2. The case of the petitioner Management is that the 2nd respondent/



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

workman in both the writ petitions were suspended from service and issued with charge memo stating that they have failed to discharge their duties as a responsible officer and committed serious misconduct by colluding with other workers and caused heavy loss to the Society. After fullfledged enquiry, they were dismissed from service on 25.01.1999. Therefore, the 2nd respondent raised industrial dispute claiming reinstatement with continuity of service, backwages and other benefits. The Labour Court had reinstated the 2nd respondent/ workman in both the writ petitions (W.P.Nos.10949 & 10950/2005) without backwages. Aggrieved over the same, the petitioner Management had filed two writ petitions in W.P.Nos.10949 & 10950/2005. Aggrieved over the denial of backwages and other attendant benefits by the Labour Court, one of the workmen viz., the 2nd respondent in W.P.No.10950/2005 has filed W.P.No.274/2006.

3. Heard the learned counsel for the petitioner Management and the learned counsel appearing for the respondent/workman.

4. Learned counsel for the petitioner Management would submit that the scope of interference with the quantum of punishment by the first



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

WEB COPY

respondent/ Labour Court while exercising power under section 11-A of the Industrial Disputes Act, is limited but the first respondent has proceeded to decide the quantum of punishment without any extenuating circumstances. The first respondent has merely proceeded on presumption and assumption and had lost sight of the huge loss caused to the Society. He would further submit that huge amount is still outstanding and it has not been recovered so far. Therefore, he would pray to quash the award passed by the first respondent.

5. On the contrary, the learned counsel appearing for the 2nd respondent in W.P.No.10950/2005(petitioner in W.P.No.274/2006) would submit that surcharge proceedings has been initiated and the 2nd respondent has been totally exonerated of all the charges levelled against him and therefore, the charges against the 2nd respondent in W.P.No.10950/2005 do not stand for scrutiny. Therefore, the award passed by the first respondent, denying backwages and other attendant benefits, cannot be sustained.

6. Learned counsel appearing for the 2nd respondent/workman in W.P.No.10949/2005 would reiterate the submission made by the learned



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

WEB COPY

counsel for the 2nd respondent in W.P.No.10950/2005 and would further submit that the award passed by the 1st respondent has to be modified by giving a direction to the petitioner Management to grant backwages and other benefits also.

7. This Court, considered the submissions made on either side and perused the materials available on record.

8. Admittedly, the 2nd respondents/workmen were dismissed from service on 25.01.1999 after domestic enquiry. It is true that the petitioner Society suffered heavy loss and the amount has also not been recovered. As contended by the learned counsel for the 2nd respondent in W.P.No.10950/2005, the surcharge proceedings were initiated and it is also seen from the surcharge proceedings dated 23.04.2004 that the 2nd respondent/workman in W.P.No.10950/2005 was exonerated from all the charges levelled against him. Therefore, the charges levelled against him do not stand for scrutiny. This Court is of the opinion that the punishment of dismissal from service is not warranted for the negligence and dereliction of duty though huge amount was involved in the case. The 1st respondent had



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

elaborately discussed the charges levelled against the 2nd respondent/workmen and after fullfledged trial, has passed the award reinstating the workmen but without backwages and other attendant benefits.

9. It is seen from the surcharge proceedings dated 23.04.2004, the 2nd respondent(T.Adhikesavan) in W.P.No.10950/2005 was exonerated from all the charges leveled against him. Insofar as the 2nd respondent(N.Eswaramoorthy) in W.P.No.10949/2005 is concerned, he was held liable for the loss of Rs.70,175.20 caused due to the purchase of boiled rice. Further, challenging the denial of backwages and other attendant benefits by the Labour Court, he has not filed any petition before this Court. The 2nd respondent in W.P.No.10950/2005 has filed above said W.P.No.274/2006 challenging the denial of backwages and other attendant benefits. Therefore, this Court is of view that as he is exonerated from all the charges, he is entitled for backwages and all other attendant benefits.

10. For the foregoing reasons, this Court is of the view that the writ petitions filed by the Management are liable to be dismissed. Accordingly,



W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

W.P.Nos.10949 & 10950 of 2005 are dismissed and W.P.No.274 of 2006 is allowed. The management is directed to pay the backwages and all other attendant benefits to the petitioner in W.P.No.274/2006 as per the relevant rules within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitioner are closed.

12.01.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

To

The Presiding Officer,
Labour Court, Salem.

10/11



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W.P.Nos.10949 & 10950 of 2005 of 2005
& W.P.No.274 of 2006

J.NISHA BANU,J.

vsi

W.P.Nos.10949 & 10950 of 2005
and
W.P.No.274 of 2006

12.01.2023