



W.P.No.14376 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.14376 of 2016

K.Appadurai

.. Petitioner

Vs.

1.The Presiding Officer,
III Additional Labour Court,
Chennai.

2.The Management of Thiruvanmiyur
Milk Consumers Co-operative Society Limited,
No.14, East Coast Road,
Thiruvanmiyur,
Chennai-600 041.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ or direction or order, more in the nature of a Writ of Certiorari calling for the records on the file of the first respondent and quash the impugned award dated 27.08.2014 made in I.D.No.173 of 2005.

For petitioner : Mr.B.Hari Babu

For Respondents : Mr.D.Prabhu Mukunth Arun Kumar for R2



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ORDER

This Writ Petition has been filed challenging the impugned award passed by the Labour Court in I.D.No.173 of 2005.

2. The petitioner herein is the workman and the 2nd respondent is the management. It is the case of the petitioner that he joined the services of the 2nd respondent society on 01.06.1994 as a milk booth reliever. Subsequently, he was promoted as Office Assistant and thereafter to the post of Assistant. He was suspended from service on 07.06.2003 and was charge sheeted on 20.02.2004 alleging that the petitioner has obtained a personal loan from Indian bank by producing forged and fabricated documents. However, without conducting the enquiry in a fair and proper manner, the petitioner was dismissed from service. Aggrieved by the same, the petitioner had raised an Industrial Dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the 1st respondent in I.D.No.173 of 2005 which was dismissed by the Labour Court holding that the petitioner has not given proper explanation as to the alleged misconduct. Challenging the same, the present Writ Petition has been filed.



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3. Learned counsel for the petitioner submitted that admittedly, the petitioner obtained a personal loan from the Indian Bank by producing a salary certificate issued by Secretary of the 2nd respondent society namely D.Kanniappan. The loan was sanctioned by the bank only after verifying the veracity of the said certificate, and the petitioner has also repaid the entire loan amount by way of monthly installments. Though, the management claims that the petitioner has obtained the loan on the basis of the fabricated documents, however, no complaint has been lodged by the management as to the said allegation. Further, without considering the explanation given by the petitioner during the enquiry, the enquiry officer has submitted the report holding the charges as having been proved against the petitioner. Though, the petitioner had placed relevant documents in order to defend himself, the Labour Court without taking the aforesaid facts into consideration, had mechanically rejected the claim of the petitioner, by way of the impugned award which is not sustainable. Accordingly, he prays for allowing this Writ Petition.

4. Per Contra, learned counsel for the 2nd respondent submitted



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that the petitioner was dismissed from service for obtaining loan from Indian Bank Branch by forging and fabricating the documents of the 2nd respondent society. Though the petitioner claims to have given his explanation as to the charges framed against him, however, in the said explanation during the enquiry, he himself has admitted the aforesaid charges against him by stating that he had availed a loan of Rs.25,000/- in his name and another loan of Rs.25,000/- in the name of one D.Ravindran who is one of the staffs of the Society with the help of the Secretary of the Society namely D.Kanniappan and the other namely R.Ravikumar, assistant of the Society. However, during cross examination in the enquiry, the said allegation was denied by the Secretary and the Assistant. Though, the petitioner was given one more opportunity to putforth his case, there was no convincing reply from him. Hence, the charges were proved against the petitioner. Only based on the said enquiry report, the Labour Court has rightly rejected petitioner's claim through the impugned award which needs no interference. Accordingly, he prays for dismissal of this Writ Petition.

5. This Court heard the learned counsel appearing on either side and perused the materials available on record.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner was the employee of the 2nd Respondent. After conducting a domestic enquiry, he was dismissed from service on the ground that he has availed two personal loans from the Bank in his favour as also in favour of one of the staff members of the society namely D.Ravindran even without his knowledge, by producing forged and fabricated documents of the 2nd respondent society. During the enquiry, the signatories of the forged documents have deposed and have denied the issuance of such documents. Even during the enquiry, the petitioner himself has admitted the alleged misconduct of availing loans by producing the fake documents with the bank. Merely because the amounts have been repaid, the misconduct committed by the petitioner in submitting forged and fabricated documents for obtaining the said loans would not stand erased and moreover the charges framed relating to the fabrication of forged documents submitted for obtaining the loan. The act of the petitioner is not only unbecoming of an employee, but it demolishes the trust reposed on the employee by the employer.



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7. Having taken all the aforesaid facts into consideration, the Labour Court has rightly held the punishment of dismissal imposed by the management is proportionate. Further, the petitioner having admitted the alleged misconduct even during the domestic enquiry, the claim made by the petitioner with regard to repayment of the entire loan amounts alone cannot be the basis for causing interference with the impugned order. Hence, the prayer sought for in this Writ Petition cannot be granted and same deserves to be dismissed.

8. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

27.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

The Presiding Officer,
III Additional Labour Court,
Chennai.



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M.DHANDAPANI, J.

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