



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED 21.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN

W.P.No. 19063 of 2013

And

M.P.No. 1 of 2013

The Management

Tamil Nadu Co-operative Milk

Producers Federation Ltd.,

Chennai – 600 035.

... Petitioner

..Vs..

1. General Secretary
Tamil Nadu Dairy Development
Corporation Employees Union
Chennai – 600 019.

2. The Presiding Officer
I-Additional Labour Court,
City Civil Court Buildings,
Chennai.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent in I.D.No. 232 of 2008 dated 14.12.2012 and quash the same.



For Petitioner :: Mr.Jayakumar
for Mr.T.K.Ashok Kumar

For 1st Respondent:: Mr.K.M.Ramesh,
Standing Counsel
for Mr. Bharathi

ORDER

I have already held that approval had not been obtained from the appropriate authorities, prior to initiating action, for dismissing the two employees.

2. The learned counsel for the petitioner would bring to my notice that after the conciliation failure report had been made and the reference had been notified by the Government, the dispute had been raised in I.D.No. 232 of 2008. In the said Industrial dispute, the Labour Court had passed an award on 14.12.2012 holding that the dismissal is wrongful and the petitioners are entitled to be reinstated in service together with 50% back wages. The ground on which it has been set aside is that an application under Section 33(2)(b) of the Industrial Disputes Act not having been filed. The entire proceeding is vitiated and the workmen are deemed to continue in service. This is



by virtue of the view taken by the Constitution Bench of the Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd., Vs. Ram Gopal Sharma and Others [2002] 2 SCC 244***. Therefore the order of dismissal has to be treated as void. Hence, the view taken by the Labour Court cannot be faulted with as that is the position of law declared by the Supreme Court.

3. Apart from that, the Labour Court has come to a conclusion that no evidence was produced before it to show that a domestic enquiry had, infact, been conducted as against the two dismissed employees. When no domestic enquiry has been conducted as required by law, then the dismissal cannot but be terminated as wrongful. Hence, the Writ Petition filed by the Management deserved to be dismissed. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

21.06.2023

vsg

(2/2)

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



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V. LAKSHMINARAYANAN, J.,

vsg

To

1. General Secretary
Tamil Nadu Dairy Development
Corporation Employees Union
Chennai – 600 019.
2. The Presiding Officer
I-Additional Labour Court,
City Civil Court Buildings,
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