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W.P.Nos.14676 of 2016 and 9067 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14676 of 2016 and 9067 of 2012

And

M.P.No.1 of 2012

P.Thiyagarajan

... Petitioner in W.P.14676/2016

The Kurinjipadi Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Special Officer,
11/28, Pattai Street,
Kurinjipadi,
Cuddalore District.

... Petitioner in W.P.9067/2012

Vs.

1.The Management of Kurinjipadi Primary
Agricultural Co-operative Bank Ltd.,
Rep by its Special Officer,
11/28, Pattai Street,
Kurinjipadi,
Cuddalore District.

2.The Presiding Officer,
Labour Court,
Cuddalore.

W.P.14676/2016

... Respondents in

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.P.Thiyagarajan

... Respondents in W.P.9067/2012



W.P.Nos.14676 of 2016 and 9067 of 2012

Prayer in W.P.No.14676 of 2016:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records from the files of the second respondent in I.D.No.112 of 2005 dated 13.06.2011 and quash the same insofar as the second respondent has negated the claim of the petitioner for back wages and other attendant benefits.

Prayer in W.P.No.9067 of 2012 :

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in I.D.No.112 of 2005 dated 13.06.2011 quash the same.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for M/s.K.Bharathi
in W.P.No.14676 of 2016
Mr.T.C.Harinath
in W.P.No.9067 of 2012

For Respondents : Mr.L.P.Shanmuga Sundaram for R1
in W.P.No.14676 of 2016
Mr.K.M.Ramesh for R2
Senior Counsel
for M/s.K.Bharathi
in W.P.No.9067 of 2012

COMMON ORDER

W.P.No.14676 of 2016 has been filed by the Workman seeking to quash the Final Award passed in I.D.No.112 of 2005, dated



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13.06.2011 since the Labour Court has negated the claim of the Workman for back wages and other attendant benefits.

2.W.P.No.9067 of 2012 has been filed by the Management seeking to quash the Final Award passed in I.D.No.112 of 2005, dated 13.06.2011 since the Labour Court has ordered reinstatement of the Workman with continuity of service.

3.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order. For brevity, the petitioner in W.P.No.14676 of 2016 would be hereinafter referred to as 'Workman' and the petitioner in W.P.No.9067 of 2012 would be hereinafter referred to as 'Management'.

4.The facts of the case is that the Workman was working as Salesman from 1988 under the Management till 05.12.2002 and his last drawn pay was Rs.2,820/- per month. The Workman sent a letter of resignation on 03.12.2002 and based on the said letter he was suspended from service on 05.12.2022 and notices were sent to him directing him to appear before the Management and since he did



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not appear before the Management, his resignation letter was accepted by the Management on 13.02.2003. Thereafter, the Workman raised Industrial Dispute in I.D.No.112 of 2005 before the Labour Court and the Labour Court vide order dated 13.06.2011 passed final award ordering that the Workman is entitled for reinstatement with continuity of service, however, not entitled for backwages and other attendant benefits. Hence, these writ petitions.

5.The learned Senior Counsel appearing for the Workman submitted that by threat and coercion, the Management obtained the signature of the Workman in the resignation letter. Thereafter the Management issued suspension order and also issued charge memo as against the Workman, however, enquiry was not concluded in the manner known to law and the Workman was orally terminated from service. Hence, without conducting enquiry and orally terminating the Workman from service is not sustainable one. Hence, the Final Award ordering reinstatement with continuity of service is not perverse, however, denying backwages and other attendant benefits is not sustainable one. The Workman is not gainfully employed anywhere and hence refusing to grant backwages and other attendant benefits is not sustainable one.



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6.The learned counsel appearing for the Management submitted that already the Workman was imposed with punishment for committing misdemeanours while working as Salesman for five times. On 28.11.2002, when the Workman was working as Salesman in PDS Shop No.3, he remitted only Rs.412 on that day and the balance Rs.5,000/- was remitted on 01.12.2002 and thereafter he absented himself from duty without obtaining permission from the Management and on verification in the shop it was found that there was a shortage of Rs.5,134.80/-. Thereafter, the Workman accepted his guilt and gave the resignation letter dated 03.12.2002 to the Management.

7.The learned counsel appearing for the Management further submitted that on the basis of the resignation letter, the Management suspended the Workman from service on 05.12.2002 and sent notices to the Workman on 23.12.2002, 21.01.2003 and 13.02.2003 directing the Workman to submit his explanation and to appear before the Management and since he did not appear before the Management, his resignation letter was accepted on 13.02.2003. Once the resignation letter was accepted, there is no need for conducting enquiry as



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against the Workman. All these facts were not properly discussed by the Labour Court and the Labour Court mechanically arrived at a conclusion that the Workman is entitled for reinstatement with continuity of service which is perverse and the impugned Award warrants interference.

8.Heard the arguments advanced on either side and perused the materials available on record.

9.The facts in the present case is not in dispute. Admittedly, the Workman was working as Salesman from 1988 under the Management till 05.12.2002 and his last drawn pay was Rs.2,820/- per month. The Workman sent a letter of resignation on 03.12.2002 and based on the said letter he was suspended from service on 05.12.2022. Thereafter, the Management sent notices to the Workman on 23.12.2002, 21.01.2003 and 13.02.2003 directing the Workman to submit his explanation and to appear before the Management and since he did not appear before the Management, his resignation letter was accepted on 13.02.2003.

10.It is alleged that already the Workman was imposed with



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punishment for committing misdemeanours while working as Salesman for five times. On 28.11.2002, when the Workman was working as Salesman in PDS Shop No.3, he remitted only Rs.412 on that day and the balance Rs.5,000/- was remitted on 01.12.2002 and thereafter he absented himself from duty without obtaining permission from the Management and on verification in the shop it was found that there was a shortage of Rs.5,134.80/-. Thereafter, the Workman accepted his guilt and gave the resignation letter dated 03.12.2002 to the Management.

11.Before the Labour Court, the Workman has examined himself as W.W.1 and marked two exhibits Ex.W1 and Ex.W2. On the side of Management, one witness was examined as M.W.1 and exhibits Ex.M1 to Ex.M24 have been marked.

12.The resignation letter submitted by the Workman has been marked as Ex.M10 and the said letter was accepted by the Management by passing Resolution and the said Resolution has been marked as Ex.M22. However, the above facts were not properly discussed by the Labour Court and the exhibits have not been properly considered by the Labour Court. If the resignation letter



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was obtained from the Workman by way of coercion and threat, he ought to have immediately sent his objection to the Management, however, he raised the issue one before the Labour Court. Hence, the Award impugned in these writ petitions ordering that the Workman is entitled for reinstatement with continuity of service is perverse, not sustainable and warrants interference and the same is set aside.

13.In fine, the writ petition filed by the Management i.e., W.P.No.9067 of 2012 is allowed and the writ petition filed by the Workman i.e., W.P.No.14676 of 2012 is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

04.07.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Management of Kurinjipadi Primary
Agricultural Co-operative Bank Ltd.,
Rep by its Special Officer,
11/28, Pattai Street,
Kurinjipadi,
Cuddalore District.

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2.The Presiding Officer,
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M.DHANDAPANI,J.
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