



W.P.No.2656



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 20.11.2023

DELIVERED ON: 27.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.26568 of 2011

M.P.No.2 of 2011

K.Raja
...Petitioner

vs.

1.The Presiding Officer,
Labour Court,
Vellore.

2.The Secretary,
C-2500, Sundarampalli Primary Agricultural,
Co-operative Credit Society Limited,
Sundarampalli, Tirupathur Taluka,
Vellore District.

3.The Special Officer,
C-2500, Sundarampalli Primary Agricultural,
Co-operative Credit Society Taluka,
Sundarampalli, Tirupathur Taluka,
Vellore District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus to call for the records on the file of the
1st respondent in I.D.No.226 of 2010 dated 26.04.2011 and 05.09.2011 and



petitioner with full back wages and continuity of service and all other attendant benefits.

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For Petitioner : Mr.M.Thangaraju

For Respondents : R1 – Labour Court
R2 – Service awaited – not ready in notice
Mr.M.Thirumoorthy for R3
for Mr.L.P.Shanmugasundaram

ORDER

The Writ Petition has been filed challenging the Award of the first respondent in conforming the order of dismissal of the petitioner and to direct the respondents 2 and 3 to reinstate the petitioner with full back wages and continuity of service with all other attendant benefits.

2.Heard, Mr.M.Thangaraju, learned counsel appearing for the petitioner. When the matter was taken up for hearing, there was no representation on the side of the respondents.

3.Mr.M.Thangaraju, learned counsel appearing for the petitioner would submit that the petitioner was working as a Salesman in the third respondent management and has an unblemished service of 25 years. On 29.03.2008, when the second respondent had inspected the Fair Price Shop where the petitioner was working as a Salesman, it was alleged that there was a deficit of 1,010



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was submitted by the Sub-Registrar of Co-operative Society and on such alleged Report, the petitioner was served with a charge memo dated 27.05.2008. He would submit that the charge leveled against the petitioner was that there was a deficit of 1,010 kilogram of rice worth about Rs.12,423/- and 22 litres of kerosene worth about Rs.294.50, totalling to Rs.12,717.80.

4.He would further submit that the petitioner has given his explanation on 31.05.2008 for the charge framed against him stating that the rice bags supplied by the Civil Supply Corporation was less in number and he had deposited the amount for the sales and he had not misappropriated any amount as alleged. Further, for the deficit of 22 litres of kerosene, it has been stated that it happened due to the leakage in the kerosene tank. Thereafter, a domestic enquiry was conducted and being not satisfied with the explanation given by the petitioner had suspended the petitioner from service on 31.03.2008 and by order dated 20.08.2008, the petitioner was terminated from service.

5.He would further contend that during the proceedings before the first respondent, it was found that the respondents 2 & 3 had transferred the same amount of rice which was alleged to have been sold by the petitioner to some other PDS Shop showing excessive stock, this itself shows that the Inspection Report and the charges framed against the petitioner are all false. The petitioner



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was not given any opportunity by the Enquiry Officer and the enquiry itself was not conducted in a fair and proper manner. Further, he could contend that the petitioner was asked to remit the alleged amount of deficit and the petitioner has also remitted a sum of Rs.12,717.80 on 31.03.2008 and further a sum of Rs.2213/- on 21.04.2008.

6.He would submit that during the domestic enquiry on 31.03.2008, the petitioner was made to sign in a blank paper and the contents were later filled in by the respondents stating that the petitioner has accepted the misconduct. The petitioner has raised an industrial dispute in I.D.No.226 of 2010, where a preliminary order dated 26.04.2011 was passed holding that the domestic enquiry conducted by the respondents 2 & 3 was in a free and fair manner and not against the principle of natural justice. Challenging the preliminary award of the first respondent, the petitioner has filed a Writ Petition in W.P.No.19526 of 2011 and this Court had dismissed the same granting liberty to challenge the same in case the final award is decided against the petitioner and on 05.09.2011, I.D.No.226 of 2010 was dismissed holding that the punishment of dismissal as against the petitioner is not disproportionate. Being aggrieved by the order of the first respondent in confirming the order of dismissal has filed this writ petition seeking to set aside the impugned orders.



7.I have heard the submissions made by the learned counsel appearing for the petitioner and have perused the materials available on record before this Court.

8.The first respondent had passed a preliminary award that the enquiry that had been conducted was fair and proper. In coming to the conclusion, the first respondent had given detailed findings as to the procedure that had been followed by the Disciplinary Authority in conducting the enquiry.

9.Learned counsel appearing for the petitioner had even though disputed such enquiry being not fair and proper, I am not inclined to differ with the reasonings & findings that had been arrived at by the first respondent in holding that the enquiry had been conducted in a fair and proper manner. I am also satisfied with the procedure that had been followed by the Disciplinary Authority in the conduct of the Disciplinary Proceedings. With regard to the merits of the case, the first respondent had framed four issues which are as follows:

“1.Whether the respondent management had proved the charge of misconduct against the petitioner or not?

2.Whether the dismissal of the petitioner is justified?

3.Whether the petitioner is entitled to reinstate in service with continuity of service back wages and all other attendant benefits?

4.To what relief, the petitioner is entitled to?”

10.It could be seen from the order that the petitioner had not produced any



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documentary evidence to support his claim of receipt of the deficit stock of rice from the civil supply. He had in his initial explanation accepted the fact that due to the overcrowding, he was not able to bill the commodities supplied to the Family Card Holders and he did not get money from the Family Card Holders. This statement itself is sufficient enough to hold that the petitioner had derelicted himself from the duty. It is his responsibility to bill the commodities and receive the money from the Family Card Holders.

11.The petitioner had been appointed in a responsible position to implement the Scheme of the Government which was beneficial to the citizens at large particularly the low income group people. Even if it is accepted that because of the overcrowding, he was not able to bill the commodities, he should have remitted the amount for the products that had been sold in the Fair Price Shop. He had in his reply categorically sought for an apology for the misconduct accepting that he was responsible for the deficit of the products and had remitted the money when misconduct was found.

12.In my view, it is an after thought of the petitioner that he was threatened to sign in the blank paper during the course of enquiry. If that be a fact it was for him to bring it to the knowledge of the Higher Authority of such threat or coercion immediately thereafter. In the present case, the petitioner had not done so.



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13.In view of the proved misconduct during the course of enquiry, I do not find perversity or infirmity in the punishment imposed upon the petitioner for the proved gross misconduct and I am also of the view that the first respondent was right in not interfering with the granting punishment that had been imposed on the petitioner.

14.In fine, the Writ Petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order: Yes/No
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K.KUMARESH BABU, J.

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To

The Presiding Officer,
Labour Court,
Vellore.

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