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W.P.Nos.32988 of 2014 and 22044 of 2013

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.06.2023**

**CORAM :**

**THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN**

**Writ Petition Nos.32988 of 2014 and 22044 of 2013**  
**and M.P.No.1 of 2013**

**W.P.No.32988 of 2014**

P.Elumalai

...

Petitioner

-Vs-

1.The Management / Special Officer  
V.C.3, Thellar Primary Agriculture  
Co-operative Credit Society, Thellar  
Vandavasi Circle, Tiruvannamalai  
District.

2.The Principal Labour Court  
Vellore District, Vellore.

...

Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the award in I.D.No.206 of 2010 dated 13.09.2011 on the file of the 2<sup>nd</sup> respondent and quash the same with respect to the grant of monetary compensation of Rs.1,00,000/- alone and direct the 1<sup>st</sup> respondent to reinstate the petitioner in service with backwages, continuity of service and all attendant benefits.

For Petitioner : Mr.J.Saravana Vel

For Respondents : Mr.L.P.Shanmugasundaram – for R1

R2 - Court



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**W.P.No.22044 of 2013**

The Management / Special Officer  
V.C.3, Thellar Primary Agriculature  
Co-operative Credit Society, Thellar  
Vandavasi Circle, Tiruvannamalai District.

... Petitioner

-Vs-

1.The Principal Labour Court  
Vellore District, Vellore.

2.P.Elumalai

... Respondents

For Petitioner : Mr.L.P.Shanmugasundaram  
For Respondents : R1 - Court  
Mr.J.Saravana Vel – for R2

**COMMON ORDER**

The petitioner in W.P.No.32988 of 2014 was appointed as a Salesman in the services of the petitioner in W.P.No.22044 of 2013. Five charges were framed against him and he was dismissed from service. Prior to his dismissal, domestic enquiry is said to have been conducted by the Management. According to the workman, the domestic enquiry was not conducted in accordance with law and was contrary to the principles of natural justice.

2. As the conciliation proceedings failed, an industrial dispute in I.D.No.206 of 2010 was taken on file by the Principal Labour Court at Vellore.



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3. The labour Judge framed a preliminary issue whether the enquiry was conducted in accordance with the principles of natural justice and whether it was done in compliance with law. He came to the conclusion that the same was not in accordance with law and called upon the Management to produce its evidence on merits to support the charges framed.

4. The Management did not avail the opportunity and did not produce evidence in support of its case before the labour Court. Being left with no other alternative, on the basis of the available evidence the labour Court passed an award holding that the petitioner in W.P.No.22044 of 2013 / Management had dismissed the petitioner in W.P.No.32988 of 2014 in violation of Section 25F of the Industrial Disputes Act. Challenging the same, the present writ petitions have been filed.

5. Heard Mr.L.P.Shanmugasundaram in support of the Management and Mr.J.Saravanel in support of the workman. I have carefully considered the arguments made on either side.

6. Mr.L.P.Shanmugasundaram would vehemently contend that the labour Court had not applied its mind to the facts before it and it should have found that the workman had a record of misdemeanors. In the particular case, though he



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was called upon to hand over stock worth Rs.35,862.40/- to another salesaman, he had handed over stock worth Rs.18,479/- only and therefore had caused huge loss to the Society, which is already crippled due to financial difficulties. He would further state that there was an act of misappropriation and that apart an order had been passed against him on 27.03.2010 by the Cooperative Sub Registrar at Vandavasi.

7. Mr.J.Saravanel would submit that for violation of Section 25F of the Industrial Disputes Act, the workman is entitled to be reinstated in service and would rely upon a judgment of the Supreme Court in **"Gauri Shanker -Vs- State of Rajasthan (2015) 12 SCC 754"** and would seek the Court to set aside the award insofar as it denied the reinstatement with full back wages with attendant benefits.

8. I have to state that this is a case I am in agreement partly with the workman and partly with the Management. While I agree that the amount of compensation granted by the labour Court of Rs.1,00,000/- is insufficient, I am not willing to order reinstatement of the petitioner in W.P.No.32988 of 2014. The employer has lost confidence in the employee and has in fact initiated surcharge proceedings against latter which has ended in orders against him. This shows that the employer, having lost confidence, would be put to deep prejudice in case



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reinstatement is ordered. Therefore, I am not inclined to order reinstatement as stated above.

9. Now turning to the case of the petitioner in W.P.No.22044 of 2013, I concur with the finding of the labour Court that there is serious infraction of Section 25F of the Industrial Disputes Act. Had the Management any materials to substantiate its case, it ought to have immediately produced the same before the labour Court. Several opportunities were granted to it and unfortunately it never produced the same. Having left the bus in Vellore, it is too late to board it in Chennai, especially when it had resulted in an award. Therefore, I am inclined to dismiss the writ petition in W.P.No.22044 of 2013. This is because the Management violated Section 25F of the Act and had not availed the opportunity to prove the charges before the labour Court when opportunity was granted in terms of Section 11A of the Industrial Disputes Act.

10. Insofar as W.P.No.32988 of 2014 is concerned, though I partly allow the writ petition, I am not inclined to grant reinstatement with continuity of service and backwages as sought for by Mr.J.Saravanel. I am only inclined to modify the award that has been passed by enhancing the compensation from Rs.1,00,000/- to Rs.1,25,000/-. I make it clear that the amount of Rs.1,00,000/- which was directed to be deposited, will carry interest. Learned counsel for the



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petitioner in W.P.No.22044 of 2013 would state that pursuant to the orders of this Court, a sum of Rs.1,00,000/- has been deposited into the Court. If it is deposited in an interest bearing fixed deposit account, the petitioner in W.P.No.32988 of 2014 is permitted to withdraw the same together with interest. The enhanced amount of Rs.25,000/- shall be paid by the petitioner in W.P.No.22044 of 2013 to the workman / petitioner in W.P.No.32988 of 2014 within a period of twelve weeks from today.

11. In result, W.P.No.22044 of 2013 filed by the Management is dismissed and W.P.No.32988 of 2014 filed by the employee is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

**12.06.2023**

Index : Yes/No  
Neutral Citation : Yes/No  
Speaking Order / Non-speaking order  
KST  
To

- 1.The Management / Special Officer, V.C.3, Thellar Primary Agriculture Co-operative Credit Society, Thellar, Vandavasi Circle, Tiruvannamalai District.
- 2.The Principal Labour Court  
Vellore District, Vellore.



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**V. LAKSHMINARAYANAN, J.**

KST

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