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W.P. No. 7812 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.7812 of 2016
and W.M.P. No.6973 of 2016**

DRLC-8 Sathyamangalam Cooperative Primary
Agricultural and Rural Development Bank Ltd.,
Sathyamangalam, Erode District.

... Petitioner

vs.

1. K.M.Chinnasamy

2. The Labour Court,
Salem District, Salem.

....Respondents

prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the proceedings issued by the second respondent in ID.No.214 of 2006 dated 07.01.2015 served on 21.05.2015 and quash the same.

For Petitioner : Mr.S.Nedunchezhiyan

For Respondents : Mr.R.Marudhachalamoorthy R1
R2 Labour Court

ORDER

The petition has been filed seeking to quash the impugned proceedings issued by the second respondent in ID.No.214 of 2006 dated 07.01.2015 served on 21.05.2015



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WEB COPY 2. It is the case of the petitioner that the first respondent was employed as supervisor in the petitioner cooperative Bank. While so, the officials in the petitioner Bank have committed serious irregularities and defalcation, an enquiry under Section 81 of the Commission came to be ordered by the District Registrar of Co-operative Societies based on which enquiry was conducted and a report was submitted. As per Section 81 enquiry report, it is found that the respondent herein has committed serious irregularities by not remitting the cash balance in the bank account for more than two years. The respondent was issued with show cause notice dated 07.04.2005 calling upon him to offer his further explanation. Even thereafter, the respondent has not chosen to file a reply. Pursuant to which, the petitioner Management dismissed the first respondent from service vide proceeding dated 30.04.2005. As against the same, the first respondent has initiated the conciliation proceeding under ID. Act. After failure report, the Industrial Dispute was raised by the petitioner Bank. The Labour Court passed an award in favour of the first respondent and directed the petitioner to reinstate the first respondent along with back wages and continuity of service. Challenging the said order, the present writ petition has been filed.



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3. The learned counsel for the petitioner submitted that admittedly the first respondent was dismissed from service on 30.05.2005. Challenging the same, the first respondent raised an Industrial Dispute in the year 2006 and award was passed in the year 2015. Prior to that, the first respondent was retired from service in the year 2013. Therefore, the order of the Labour Court in respect of reinstatement, does not arise. If the first respondent succeeds the case, he is only eligible for terminal benefits. During the pendency of this petition, the entire benefits were settled in favour of the first respondent. Without conducting enquiry, the Labour Court passed an award in favour of the workmen, which is perverse and there is no merit in the impugned orders.

4. The learned counsel for the first respondent submitted that after filing the report of the enquiry officer, the petitioner Management has not asked any explanation from the first respondent and dismissed him from service. During enquiry, there is no evidence available against the first respondent to prove his guilt. Even then, the petitioner has removed the first respondent from service. Without providing any opportunity to the first respondent, the petitioner Management has taken a decision. But, the Labour Court rightly enquired the issue and passed an award.



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5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the first respondent entered into service in the year 1985 with the petitioner Management as Supervisor. During the year 2004, a charge memo was issued to the first respondent on two grounds as if the first respondent received an advance amount towards payment legal fees, travelling allowance and the same has not been settled by him. The second charge is that the first respondent has created a bogus certificate/records in favour of the members and also issued loan to the defaulter.

7. On perusal of the records, it is seen that the above said two grounds have not established before the Labour Court. In respect of the first allegation, no witnesses were examined and no documents were marked. In respect of the second charge, the first respondent is not a loan sanction authority. Admittedly, the Manager and the Secretary are the loan sanction authority, the first respondent was working as a Supervisor and he has no power to sanction the loan. Hence, the second charge is not also correct and not proved. The above said facts have elaborately discussed by the Labour Court during trial and



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passed the present impugned award, which is perfectly in order and the same cannot be interfere with.

8. With the above discussion, the writ petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs. However, the petitioner Management is directed to settle the entire terminal benefits to the first respondent, if not already settled within a period of six weeks from the date of receipt of a copy of this order, after deducting the dues received by the first respondent.

24.07.2023

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Index: Yes/No

NCS : Yes/No

To
The Labour Court,
Salem District, Salem.



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