



W.P.No. 25992 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.25992 of 2019

S. Ravikumar

... Petitioner

Vs.

The President
(previously Special Officer)
Washermanpet Co-operative Stores Ltd.
XNC 589, Old No.91/2, P.A.N. Rajarathinam Road,
Washermanpet,
Chennai 600 021.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in connection with the Award dated 24.01.2017 passed by the II Additional Labour Court, Chennai, in I.D. No.325 of 2012, quash the same and direct the respondent to reinstate the petitioner in service with full back wages, continuity of service and with all attendant benefits.

For Petitioner : Mr.S. Ravi
For Respondent : Ms.M.Reena



W.P.No. 25992 of 2019

ORDER

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Challenge in this Writ Petition is made to the Award dated 24.01.2017 passed by the Presiding Officer, II Additional Labour Court, Chennai, in I.D. No.325 of 2012.

2. The Writ Petitioner was working as a Salesman in Wannarpet Co-operative Society, Chennai (respondent Society) at their Royapuram Civil Supplies Ration Shop since 1986. The Flying Squad of the Civil Supplies Corporation inspected the said Ration shop and found that the Writ Petitioner had stolen 15,613 litres of kerosene from the stock between the period January 2011 and June 2011 thereby causing loss to the respondent society to the tune of Rs.88,994/-. He was placed under suspension on 13.07.2011 and subsequently a departmental enquiry was initiated against the Writ Petitioner after issuing a show cause notice to him. According to the Writ Petitioner, he was not given any opportunity to put forth his contention in the departmental enquiry and however the Enquiry Officer held that the charges framed against him were proved. Thereafter the Management removed him from service with effect from 07.05.2012 after issuing second show cause notice. He, therefore, raised an Industrial dispute under Section 2A(2) of the Industrial Disputes Act,



W.P.No. 25992 of 2019

1947 (in short 'the ID Act') before the II Additional Labour Court, Chennai, in I.D. No.325 of 2012. The respondent filed a detailed counter and the Presiding Officer, Labour Court, Chennai, after analysing the oral and documentary evidence adduced on both sides, had held that though the Writ Petitioner was granted sufficient opportunity in the domestic enquiry, he did not participate in the enquiry proceedings and therefore the order passed by the Disciplinary Authority removing the Writ Petitioner from service cannot be said to be perverse. Aggrieved over the orders passed by the Presiding Officer, Labour Court, Chennai, the present Writ Petition is filed by the petitioner workman.

3. Mr.S. Ravi, learned counsel for the Writ Petitioner would contend that the Writ Petitioner was not given any opportunity in the domestic enquiry and therefore, the entire proceedings are vitiated. His further contention is that the Labour Court did not take up the issue, 'as to whether the domestic enquiry was conducted properly', as a preliminary issue and therefore, the order passed by the Labour Court cannot be sustained. In this regard he relied on the decisions in (1) ***Sundaram Motors vs. Second Additional Labour Court, Madras and others*** reported in ***1987 (2) LLN 136*** and (2) ***The Cooper Engineering***



W.P.No. 25992 of 2019

Ltd., vs. P.P. Mundhe reported in **1975 (2) LLJ 379** in which it has been held that the Labour Court must first decide as a preliminary issue whether the domestic enquiry is in violation of the principles of natural justice. It is also his submission that though the second show cause notice was issued to the Writ Petitioner on 23.04.2012 and was given 15 days time to give his explanation, he was removed from service on 07.05.2012 itself, i.e., even before the expiry of 15 days and that the Labour Court has failed to take this aspect into consideration.

4. Per contra, Ms.M.Reena, learned counsel for the respondent would contend that the Labour court, after analysing the oral and documentary evidence, had passed a well reasoned order and therefore, no interference is called for by this Court.

5. A perusal of the records shows that the Flying Squad of the respondent Cooperative Society, during inspection, had found that the Writ Petitioner had stolen 15,613 litres of kerosene from the stock between the period January 2011 and June 2011 and caused loss to the tune of Rs.88,994/- to the respondent Society. A show cause notice was issued to the Writ Petitioner and the Departmental Enquiry was initiated.



W.P.No. 25992 of 2019

The contention of the learned counsel for the Writ Petitioner is that he was not given any opportunity in the Domestic Enquiry. However, the records show that the respondent did not participate in the Domestic Enquiry though he was given ample opportunities. In fact the present Writ Petitioner filed a Writ Petition in W.P. No.28790 of 2011 before this Court, in which this Court directed the respondent Society to complete the enquiry proceedings within four months. Despite the same, the Writ Petitioner did not appear before the Enquiry Officer. He did not offer any proper explanation with regard to the charges framed against him. In the decision in ***Sundaram Motors vs. Second Additional Labour Court, Madras and others*** (cited supra), a Single Judge of this Court had held that the Labour Court must first decide the issue 'whether the domestic enquiry has violated the principles of natural justice'. At this juncture, it is pertinent to point out that the allegations against the Writ Petitioner are based on records. The Enquiry Officer had verified the records filed by the Management before him and had concluded that the charges against the present Writ Petitioner were proved. Kerosene is an essential commodity and the Writ Petitioner was also arrested under the Essential Commodities Act for stealing 15,613 litres of kerosene from stock. Merely because the Labour Court had not framed a



W.P.No. 25992 of 2019

preliminary issue as to whether the domestic enquiry has been conducted in violation of the principles of natural justice, the findings given by the Labour Court cannot be said to be perverse. Moreover, the Writ Petitioner, during the course of Cross examination had admitted that he is ready to pay a sum of Rs.88,994/- after conclusion of the Enquiry Proceedings. He did not participate in the proceedings for the reasons best known to him and he cannot be heard to say that the domestic enquiry is against the principles of natural justice. Curiously enough, he is also finding fault with the orders passed by the Labour Court, which is without any logic. Moreover, he was removed from service only after 15 days since no reply was received from him for the second show cause notice.

6. In the circumstances, the Writ Petition is dismissed. No costs.

18.12.2023

bga
Index : yes/no
Speaking /Non speaking Order



W.P.No. 25992 of 2019

To
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W.P.No. 25992 of 2019

R.HEMALATHA, J.

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W.P.No.25992 of 2019

18.12.2023