



W.P.No.8004 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.No.8004 of 2017

and

W.M.P.No.8750 of 2017

1.The Assistant General Manager,
HRD Disciplinary Authority,
Karur Vysya Bank Ltd.,
Central Office, Erode Road,
Karur.

2.General Manager,
Appellate Authority, HRD,
Karur Vysya Bank Ltd.,
Erode Road, Karur – 1.

...Petitioners

-Vs-

1.The Deputy Commissioner of Labour,
Authority under the Shops & Establishments Act,
Salem.

2.J.Sridhar

...Respondents

Prayer : Writ Petition filed under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari, to call for the records of the



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first respondent in I.A.No.____/16 in TNSE Appeal No.3 of 2015 and quash
its order dated 02.12.2016.

For Petitioners : Mr.Anand Gopalan for
M/s.T.S.Gopalan & Co.

For Respondent-1 : Mr.M.S.Prem Kumar, GA
For Respondent-2 : No appearance

ORDER

This Writ Petition has been filed by the petitioners seeking to quash the order dated 02.12.2016 passed by the first respondent in I.A.No.____/16 in TNSE Appeal No.3 of 2015.

2. During the relevant point of time, the second respondent was working as the Chief Manager (Branch Head) of the Salem Main Branch from 25.04.2012 to 07.10.2013. As he failed to perform his duty properly, there was a misappropriation of funds committed by one appraiser in the jewel loan portfolio of the branch. Pursuant to that, a charge memo dated 22.11.2013 came to be issued, to which, the second respondent gave his reply



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dated 09.12.2013. Since the explanation was not found satisfactory, an inquiry was conducted. During the course of inquiry, the second respondent was given sufficient opportunity. The Enquiry Officer ultimately gave his report on 21.04.2014 holding that the charges were proved against the second respondent. Further, the first petitioner dismissed the second respondent from service by the order dated 30.05.2014. As against the said order of dismissal, the second respondent preferred an appeal and it was dismissed by the second petitioner by the order dated 06.12.2014. Thereafter, the second respondent filed further appeal under Section 41(2) of the Tamil Nadu Shops and Establishments Act (in short 'the TNSE Act') on 14.12.2014 and the same is still pending. In the meantime, the second respondent filed an unnumbered interlocutory application before the first respondent seeking the petitioners to produce seven types of documents. Further, by the impugned order, the first respondent directed the petitioners to produce five sets of documents as sought for by the second respondent leaving the other two. Challenging the same, the petitioners are before this Court.



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3. The learned counsel for the petitioners submits that, the present writ petition is filed on the ground that the documents sought for by the second respondent are private documents with regard to the customers of the petitioners Bank, thereby, the second respondent is not entitled to receive the same and the said documents are not relevant to the enquiry conducted as against the second respondent. Further, the departmental enquiry was conducted that the Shops Authorities have no power to decide the preliminary issue and they have to decide whether the departmental enquiry was conducted in a fair and proper manner not not and whether the punishment imposed by the petitioners is disproportionate or not. However, without considering the same, directed the petitioners to produce all those documents is not sustainable. Accordingly, he prays for appropriate orders.

4. Though the second respondent entered appearance through a counsel, there is no representation on behalf of him when the case is called. Considering the pendency of this writ petition, this Court is inclined to dispose of this writ petition based on the available records.



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5. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the first respondent and perused the materials available on record.

6. It is an undisputed fact that the petitioners Bank dismissed the second respondent after conducting departmental enquiry based on the proven minute drawn by the Enquiry Officer. It is an equally undisputed that when the appeal is pending before the first respondent, the second respondent filed an interlocutory application before the first respondent seeking for production of the following documents :-

- I. *Account Statement* *1186.909.1406* *of*
R.Ravichandran from 01.09.2014 till date
- II. *Appointment order, charge sheet and final order passed*
by the Management to the following employees:
 1. *Miss.Merlyn*
 2. *Jayaprabaharan*
 3. *Mrs.Jayalatha*
 4. *L.Sabreesh*
 5. *K.Sujitha*
 6. *K.Padmapriya*
 7. *G.Sureshkannan*



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III. Date of opening and introduction details of the following Saving A/c.

<i>Name</i>	<i>A/c.Number</i>
1. Gnanasekaran	1186 155 105544
2. R.Murali	1186 174 3845
3. S.Narayanan	1186 155 109283
4. Maniyappan	1186 155 104842
5. Manikandan	1186 155 136405
6. Kasi	1186 155 31394
7. Ravikumar	1186 155 57242
8. V.Kamaraj	1186 155 130402
9. Sabarinathan	1186 155 122393
10.Ravichandran	1186 155123372
11.S.Sivakumar	1186 135 2020
12.K.Saravanan	1186 155 142212

IV. Reply given by the following Members to the charges framed against them

1. M.R.Jayalatha
2. S.Jayaprabaharan
3. P.Vijayalakshmi
4. M.Merlyn

V. Attendance Register for the month of May and June 2013 for the Salem Main

VI. Copy of the process note / sanction note prepared by Salem Divisional Office with respect of loan sanctioned to J.Mani and Ravichandran.



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*VII. Letter given by the Second Appraiser
S.Venkataramana Guptha dated 03.10.2013.*

7. The first respondent rejected the request of the production of document in No.3 and 7 and directed the petitioners to produce all the documents except 3 and 7. This Court perused the documents sought for by the second respondent, from which, it is seen that the first document relates to statement of account of R.Ravichandran from 01.09.2014 till date and the second document relates to appointment order, charge sheet and final order passed by the Management in respect of other employees. The fourth document is with regard to reply given by the employees to the charges framed against them and the fifth document relates to attendance register for the month of May and June 2013 for the Salem Main and the sixth document relates to sanction note prepared by Salem Divisional Office with respect of loan sanctioned to individual customer viz., J.Mani and Ravichandran. However, except the fifth document, all the other documents directed to be given to the second respondent as directed by the first respondent are private documents of the customers of the petitioners Bank, in which, the second



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respondent is not entitled and the Labour Court miserably failed to consider that those document are related to private individual. Without consent of the customers of the petitioners Bank, directing the petitioners to produce those documents is not sustainable.

8. Therefore, this Court set aside the impugned order in respect of documents Nos.1, 2, 4 and 6, however, directs the petitioners to produce document No.5, viz., attendance register for the month of May and June 2013 for the Salem Main to the second respondent within a period of four (4) weeks from the date of receipt of a copy of this order.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
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To
The Deputy Commissioner of Labour,
Authority under the Shops & Establishments Act,
Salem.



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M.DHANDAPANI,J.,

sp

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