



W.P.No.11813 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM :

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

W.P.No.11813 of 2017

and

WMP.Nos.12773 of 2017 & 6396 of 2018

The Management,
Salem Agricultural Producers Co-operative Marketing Society Ltd.,
305, Suramangalam Main Road,
Salem-9.

Rep. by its Secretary-Incharge

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.

2. L.Jyoti Muruganandan

...Respondents

Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in I.D.No.174 of 2006, quash its award dated 15.6.2015 and remit the matter to the 1st respondent for giving an opportunity to the petitioner to lead evidence on merits.

For Petitioner : Mr.A.P.Venkatesh Prasad for
M/s.T.S.Gopalan & Co.

For Respondents : Mr.K.V.Shanmuganathan, for R2



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ORDER

This Writ petition has been filed seeking quashment of the award of the 1st respondent dated 15.06.2015 passed in I.D.No.174 of 2006.

2. The case of the petitioner is that, the petitioner is engaged in several lines of business and distribution of ration commodities through its fair price shops is one such activities. When the officials of the Revenue Department made a surprise visit to the fair price shop concerned in the year 2005, certain discrepancies were found showing that there was a diversion of stocks unauthorizedly and the same was reported to the Special Officer concerned, who conducted a detailed verification of the stocks in the shops and it was found that from 24.02.2004 to 16.03.2004, 102 tonnes of rice had been pilfered and disposed of in the open market thereby causing a loss to the society to the tune of Rs.24.96 lakhs. Therefore, the petitioner initiated disciplinary action against those, who were involved including the 2nd respondent herein. Ultimately, only in respect of seven persons, a charge sheet dated 30.04.2004 came to be issued and after conducting inquiry, they were dismissed from service 18.11.2005. At the instance of the 2nd



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respondent, conciliation proceedings were initiated, which ended in failure.

Thereafter, aggrieved by the termination order, the 2nd respondent raised the industrial dispute before the 1st respondent, to which, the petitioner filed a counter, however, vide present impugned award dated 15.06.2015, the 1st respondent, set aside the dismissal order and ordered for reinstatement of the 2nd respondent with 50% back wages, continuity of service and all other attendant benefits. Challenging the same, the petitioner is before this Court.

3. Though very many grounds have been raised, the learned counsel for the petitioner submitted that, the similar awards have been challenged by the petitioner herein before this Court in W.P.Nos.9753 to 9757 of 20133 and this Court, vide order dated 24.07.2023, allowed the said petitions by quashing the impugned awards and remanded the matter to the first respondent for fresh disposal and sought for similar relief.

4. Learned counsel appearing for the 2nd respondent did not dispute the submission made by the learned counsel for the respondent.



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5. A perusal of the order of this Court dated 24.07.2023 made in

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W.P.No.9753 of 2013, it is evident that, a co-ordinate Bench of this Court had already arrived a conclusion that, the impugned award is non-est in law and remanded the matter to the 1st respondent for fresh disposal by setting aside the impugned award and directed the 1st respondent to dispose of the same within a period of three months, after affording sufficient opportunity to the petitioner as well as the 2nd respondent to let in their respective evidences. For better appreciation, the relevant paragraphs are extracted hereunder:-

“12. Considering the facts and circumstances, the award passed by the first respondent in ID No.224/2005, dated 21.05.2012, is hereby quashed. The matter is remanded back to the first respondent for fresh disposal. It is made clear that the first respondent shall give sufficient opportunity to the petitioner as well as the second respondent to let in their respective evidences and it shall be completed within a period of three months from the date of receipt of a copy of this order. Further, it is also seen that the criminal trial is pending against the second respondent. Therefore, the learned Judicial Magistrate No.II, Omalur, Salem District, is directed to complete the Trial in C.C.No.446 of 2009, within a period of three months from the date of receipt of a copy of this order.

13. In the result, this writ petition stands allowed. Consequently, connected Miscellaneous petitions are closed. There shall be no order as to costs.”



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6. The present cases in hand, being similar in nature, following the said decision of the co-ordinate bench, this Court is inclined to set aside the impugned award and remand the matter to the 1st respondent to decide the issue afresh as ordered in W.P.No.9753 of 2013.

7. Accordingly, this Writ Petition stands allowed with the aforesaid directions. No costs. Consequently, the connected Miscellaneous petitions are closed.

25.07.2023

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To

The Presiding Officer,
Labour Court, Salem.



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M.DHANDAPANI., J.

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