



W.P.No.31996 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31996 of 2017

M.Rajendran

... Petitioner

Vs.

1.The Special Officer,
Kanchipuram District Consumer
Co-Operative Whole Sale Stores,
No.135, Prakasam Salai,
Chennai – 600 108.

2.The Presiding Officer,
Principal Labour Court,
Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No.81 of 2015, Award dated 21.08.2017 passed by the Principal Labour Court, Chennai and quash the same and consequently to direct the second respondent / Management to reinstate the petitioner herein with full back wages and continuity of service and all other monetary benefits.



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For Petitioner : Mr.D.Gopinathan
For Respondents : Mr.L.P.Shanmugasundaram for R1
R2 – Labour Court

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No.81 of 2015, award dated 21.08.2017 passed by the Principal Labour Court, Chennai and to quash the same and consequently to direct the second respondent / Management to reinstate the petitioner with full back wages and continuity of service and all other monetary benefits.

2.The case of the petitioner is that the petitioner joined as Assistant Salesman on 04.08.1986 in the first respondent's ration shop and was subsequently promoted as Salesman. The petitioner was working as Salesman in Thirukazhukundram Shop Nos.4 and 5. The first respondent instructed the petitioner over phone to work in the Pooncherry Shop and he worked there for seven days. On 29.07.2009, the first respondent issued transfer order and relieved the petitioner from Thirukazhukundram Shop No.5. Thereafter, he was working only in Thirukazhukundram Shop No.4.



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3.The further case of the petitioner is that based on the circular dated 29.08.2009 issued by the first respondent, the Stock Verification Officer inspected Thirukazhukundram Shop Nos.4 and 5 and submitted report dated 01.08.2009 stating that there is deficit of stock to the tune of Rs.14,781/- in the said shops. Thereafter the first respondent issued suspension order to the petitioner on 14.08.2009 suspending the petitioner with effect from 17.08.2009. Thereafter one Haridoss was appointed in the place of the petitioner at Thirukazhukundram Shop No.4. Thereafter, departmental enquiry was conducted and the petitioner was dismissed from service vide order of the first respondent dated 06.03.2013. Thereafter, the petitioner raised industrial dispute before the second respondent and the second respondent vide impugned award dated 21.08.2017 dismissed the industrial dispute. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that the petitioner joined as Assistant Salesman on 04.08.1986 in the first respondent's ration shop and was subsequently promoted as Salesman. After appointment, he was given training and thereafter



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had worked in various places. Thereafter the petitioner was working in Thirukazhukundram Shop Nos.4 and 5. Whileso, the first respondent instructed the petitioner over phone to work in the Pooncherry Shop and he worked there for seven days. On 29.07.2009, the first respondent issued transfer order and relieved the petitioner from Thirukazhukundram Shop No.5. Thereafter, he was working only in Thirukazhukundram Shop No.4.

5.The learned counsel appearing for the petitioner further submitted that the petitioner was dismissed from service for stock deficit from 01.08.2009 to 26.08.2009, however, the petitioner was suspended with effect from 17.08.2009 and the petitioner was relieved from Thirukazhukundram Shop No.5 on 29.07.2009. The learned counsel further submitted that the first respondent conducted enquiry for stock deficit amount of Rs.2,05,195.40 based on the charge memo dated 02.11.2009, however, charge memo dated 02.11.2009 was not served on the petitioner. The second respondent without considering the factual aspects, dismissed the industrial dispute, which is not sustainable one.



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6.The learned counsel appearing for the first respondent submitted that while the petitioner was working in Thirukazhukundram Fair Price Shop Nos.4 and 5, certain irregularities were found by the Special Tahsildar (Flying Squad) on 14.07.2009 and the petitioner was found to have prepared forged bills, without issuing PDS items to the ration card holders he had reduced the stocks. Further, there was stock deficit worth Rs.2,05,195.40, for which the petitioner was subject to disciplinary action and charge memo dated 05.10.2009 and 02.11.2009 were issued to him and after due enquiry, the petitioner was dismissed from service vide order dated 06.03.2013.

7.The learned counsel appearing for the first respondent further submitted that the petitioner himself admitted the guilt and paid the amount periodically. The petitioner has admitted his guilt even before the second respondent during the course of cross examination. The second respondent considered the issue elaborately and has rightly passed the impugned award, which warrants no interference.



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8. Heard the arguments advanced on either side and perused the materials available on record.

9. Admittedly, the petitioner joined as Assistant Salesman on 04.08.1986 under the first respondent and was subsequently promoted as Salesman and thereafter the petitioner worked in various places. Perusal of records reveal that the first respondent suspended the petitioner with effect from 17.08.2009 as it was found that there was stock deficit of Rs.6,116/- when the petitioner worked in the Pooncherry Shop from 06.06.2009 to 26.06.2009 and the petitioner remitted the said amount. Thereafter charge memo dated 02.11.2009 was issued to the petitioner stating that when the petitioner worked in Thirukazhukundram Fair Price Shop Nos.4 and 5 it was found that there was stock deficit of Rs.2,05,195.40 and since the explanation given by the petitioner was not satisfactory, departmental enquiry was conducted. During the course of enquiry, the petitioner has remitted a portion of the amount and he has consented to recover the balance amount from his salary, bonus and other benefits. The petitioner has admitted his guilt and has remitted the amount, however, subsequently claim that he has done so at the instance of the first respondent, which is not sustainable.



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10.The second respondent has considered the issue elaborately and has rightly arrived at the conclusion that the petitioner is not entitled to the relief sought for by him and dismissed the industrial dispute raised by the petitioner, which warrants no interference.

11.The writ petition is accordingly dismissed. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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