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W.P.No.15519 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

CORAM :

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

W.P.No.15519 of 2017

K.Murugaiyan

... Petitioner

-Vs-

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.Management,
II92, Thirunavalur Uzhabar Pani Kottravu Sangam,
Rep.by its President/Secretary,
Thirunavalur,
Ulundurpet Taluk,
Villupuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, after calling for the concerned records from the first respondent, quash the award of the first respondent Labour Court dated 06.10.2016 in I.D.No.5 of 2015 as illegal, arbitrary, contrary to law and consequently direct the second respondent to reinstate the petitioner with full back wages, continuity of service and all other attendant benefits.



For Petitioner : Mr.Balan Haridas
For Respondent-2 : Mr.R.Arumugam

ORDER

This Writ Petition has been filed by the petitioner seeking to quash the award dated 06.10.2016 in I.D.No.5 of 2015 on the file of the first respondent and to direct the second respondent to reinstate the petitioner into service with back wages, continuity of service and all other attendant benefits.

2. The case of the petitioner is that, he joined the services of the second respondent as a salesman on 02.01.1988. Thereafter, he was assigned the jobs of (i) clerk on 12.03.2010 and (ii) additional charge of cashier from 27.04.2010. He was placed under suspension on 26.05.2010 and issued with a charge memo dated 23.05.2011 containing five charges. Though the petitioner gave his explanation dated 22.06.2011 denying the charges, not satisfied with that, the second respondent ordered for a domestic enquiry. After completion of the enquiry, the Enquiry Officer gave a report dated 23.12.2011 holding (i) charge Nos.2, 4 and 5 as proved; and (ii) charge Nos.1 and 3 as not proved. Pursuant to that, he was dismissed from service by an order dated 29.06.2012.



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2.1. Challenging the said order of dismissal from service dated 29.06.2012, the petitioner filed a revision before the Joint Registrar, Villupuram Zone, which ended in dismissal on 19.09.2013. Therefore, aggrieved by the said order of dismissal from service dated 29.06.2012, the petitioner raised the industrial dispute before the first respondent in I.D.No.5 of 2015, in which, the second respondent remained *ex-parte*. However, the first respondent dismissed the said industrial dispute by the impugned order on the ground that charge Nos.2, 4 and 5 were proved and that the petitioner had not produced any evidence as to how he got the safety locker key nor any evidence had been produced to show that the Secretary of the second respondent gave instructions to keep the safety locker key in the wooden bureau. As against the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that without hearing the second respondent, the Labour Court had mechanically dismissed the industrial dispute, which is not sustainable. He also submitted that the Labour Court had dismissed the industrial dispute on the ground that the petitioner has



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not produced any document to prove that he has not committed any misconduct.

Hence, he prays that this Court may be grant liberty to the petitioner to mark important document before the Labour Court enabling the Labour Court to consider properly and pass award after providing opportunity to the second respondent to adduce evidence.

4. The learned counsel appearing for the second respondent submitted that the petitioner was entrusted with a key of the safety locker when he was carrying out the additional work of cashier, that instead of keeping the locker key safely, the petitioner kept the same in a wooden bureau of the society, which led the other key holder, along with one another person, to commit the theft of gold jewels worth about 12 crores and cash kept in the locker on 22.05.2010.

5. He further submitted that after recovery of 1.25 Kgs of jewels, the other two accused were stated to have sold the remaining jewels and out of the sale proceeds, they purchased movable and immovable properties and that based on the investigation report, two Government Orders namely (i) G.O.Ms.No.590 dated 13.8.2013; and (ii) G.O.Ms.No.132 dated 21.2.2014 were issued



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attaching the movable and immovable properties of the other two accused.

Further according to the second respondent, due to the pendency of the criminal case in C.C.Nos.14 and 15 of 2011 on the file of the Judicial Magistrate, Ulundurpet, the attached properties are yet to be sold and if the attached properties are sold, the second respondent will be able to recover the amounts equivalent to the value of jewels lost in the theft. During the pendency of the investigation, one of the accused died.

6. Further, he submitted that though the second respondent has not appeared before Labour Court, the Labour Court on its own dismissed the industrial dispute raised by the petitioner, which cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

7. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.



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8. The facts in the present case is not in dispute. The petitioner claims that he was not allowed to produce any documents. Admittedly, before the Labour Court, only one document viz., failure report is marked as Ex.W.1. Except the said document, no other document was marked and the petitioner examined himself as P.W.1. In order to give opportunity to the petitioner as well as the second respondent, this Court is inclined to set the award and remand the matter to the first respondent for fresh consideration.

9. Accordingly, the award passed in I.D.No.5 of 2015 dated 06.10.2016 passed by the first respondent is set aside and the matter is remitted back to the first respondent for reconsideration. While reconsidering the same, the first respondent shall give opportunity to the petitioner as well as the second respondent to let in evidence on their behalf and pass appropriate orders as expeditiously as possible.



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10. With the above terms, this Writ Petition is disposed of. No costs.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

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To

The Presiding Officer,
Labour Court,
Cuddalore.



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M.DHANDAPANI,J.,

sp

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