



Rev.aplc(writ)(MD)No.44 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:02.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Rev.Application(writ)(MD)No.44 of 2023

in

W.P(MD)No.5507 of 2020

The Management,
Rep. by its President,
MM 3215 Madurai District Ex-Servicemen
Consumer Cooperative Store Ltd.,
12, Raja Street, Subramaniyapuram,
Madurai – 625 011.

... Petitioner/Petitioner

Vs.

1.The Appellate Authority/Deputy Commissioner of Labour,
Bharathi Ula Road,
Racecourse,
Madurai – 2.

2.S.Muniyandi

... Respondents/Respondents

Prayer: Review Application filed under 47 Rule 1 & 2 r/w Section 114 of Cr.P.C., against the order made in W.P.No.5507 of 2020, dated 20.01.2023 passed by this Court.



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For Petitioner : Mr.V.P.Rajan
For R-1 : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
For R-2 : Mr.S.Palanivelayutham

ORDER

This Review Application has been filed as against the order made in W.P.No.5507 of 2020, dated 20.01.2023.

2. The case of the review petitioner is that the petitioner management is running 13 fair price shops and a kerosene bunk. The second respondent was initially appointed as a Clerk and subsequently, promoted as a Manager. While the second respondent was working as a Manager, he misused his position and misappropriated the society fund and therefore, a charge memo was issued and charges have been framed and ultimately, he was imposed with a punishment of compulsory retirement. Challenging the same, the second respondent filed an appeal before the first respondent. The first respondent allowed the said appeal and ordered for reinstatement of the petitioner. Challenging the same, the petitioner management filed the writ petition. On earlier occasion,



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when the writ petition came up for final hearing, inadvertently, the learned counsel appearing for the petitioner management quoted a wrong provision as if there is an appeal remedy available under Section 24 of the Tamil Nadu Shops and Establishments Act, 1947(hereinafter after referred to as 'the Act') and hence, the management has filed this review application to review the order passed in the writ petition.

3. The learned counsel appearing for the petitioner would submit that the present case is coming under Chapter VII of the Act and the first respondent Deputy Commissioner of Labour is the Appellate Authority under Section 41(2) of the Act. The employee can prefer an appeal against the order passed by the employer before the Deputy Commissioner of Labour and no further appeal remedy available under the Act, either to the employee or the employer. Further, the appeal remedy available under Section 24 of the Act, is against the order passed by the Inspector. However, in the present case, the order passed by the Deputy Commissioner of Labour, is under challenge. Therefore, the appeal remedy available under Section 24 of the Act, is nothing to do



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with the order passed under Section 41(2) of the Act. No further appeal remedy available except before this Court or before the Hon'ble Supreme Court and hence, prays for appropriate orders.

4. The learned Additional Government Pleader appearing for the second respondent, has not disputed the above said contention.

5. Heard the learned counsel appearing for the petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

6. In view of the above, this review application is ordered. No Costs. The order passed by this Court in W.P(MD)No.5507 of 2020, dated 20.01.2023, is recalled and the writ petition is restored to file and the same is admitted. Registry is directed to issue Rule Nisi. Call for records in eight weeks.

02.03.2023

pm
Index:Yes/No
NCC:Yes/No

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M.DHANDAPANI, J.

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