



W.P.(MD).No.27113 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.27113 of 2019
and
W.M.P.(MD).No.23446 of 2019**

V.Murugesan

... Petitioner

Vs.

The President,
TYSPL 29, Nagar Primary Agricultural
Co-operative Credit Society Limited,
Lalgudi Taluk,
Tiruchirappalli District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned award passed in I.D.No.62/2016 dated 27.12.2017 by the Hon'ble Labour Court, Tiruchirapalli and quash the same and consequently direct the respondent to reinstate the petitioner in service as Salesman in the TYSPL 29, Nagar Primary Agricultural Co-operative Credit Society Limited, Lalgudi Taluk, Tiruchirapalli District with continuity of service and all attendant monetary benefit.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondent : Mr.R.Ragavendran,
Government Advocate.

ORDER

This Writ Petition is filed challenging the impugned award dated 27.12.2017 passed in I.D.No.62/2016 with a consequential relief to reinstate the petitioner.

2. The petitioner was appointed as Salesman on 03.01.1994 and he has rendered the service until 2013. In the meanwhile, the petitioner was suffering from certain ailments which forced him to submit a letter dated 23.10.2013 opting for voluntary retirement and the said letter was not considered until March 2014. Subsequently, since the petitioner's health was improved, he has submitted another letter dated 03.03.2014, withdrawing the earlier letter. In the meanwhile, the respondents communicated a proceeding on 14.03.2014 stating that a resolution was passed on 04.03.2014 accepting the letter of resignation, hence, the petitioner was not allowed to work. Subsequently the petitioner was appointed as Salesman with effect from 01.11.2015 and was allowed to work



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for two months. Again on 26.12.2015, the respondents passed an order removing the petitioner from service with immediate effect. Aggrieved over the same, the petitioner raised industrial dispute in I.D.No.62 of 2016. The contention of the petitioner is that the Labour Court has accepted the case of the petitioner, however, declining to reinstate. The Labour Court has relied on the audit objections and declined the prayer of the petitioner. Challenging the ID award, the present Writ Petition is filed.

3. The respondent has filed a counter stating that the resignation letter was already submitted by the petitioner and the same was approved and a resolution was also passed by the Board of Directors of the respondent Society on 04.03.2014. However, the petitioner has submitted a letter withdrawing the same on 03.03.2014. Since the petitioner's letter of resignation was accepted by the Board of Directors, the Board has no power to reconsider the request for reemployment, hence the subsequent reinstatement as Salesman on 01.11.2015 is illegal. This was pointed out by the Audit and therefore based on the audit objection, subsequently the petitioner was removed from service with effect from 26.12.2015. The Labour Court has taken the audit objection and also the resolution passed by the Board of Directors, thereafter, declined the prayer of



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the petitioner. Hence it is legally sustainable and prayed to dismiss this Writ Petition.

4. Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mr.R.Ragavendran, learned Government Advocate for the respondent and perused the records.

5. It is seen from the facts that the petitioner has submitted a resignation letter dated 23.10.2013. Thereafter, he has submitted a letter dated 03.03.2014 withdrawing the earlier resignation letter and the letter of withdrawing also accepted by the respondents. The respondents have passed the resolution, the very next day, that is on 04.03.2014. Since the resolution was passed subsequent to the withdrawal letter, the said resolution is illegal. It is a settled proposition if the resignation is withdrawn prior to approval, then the resolution cannot be acted upon. Therefore, this Court is of the considered opinion that the resolution is illegal.



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6. The next contention of the petitioner is that he was already reinstated on 01.11.2015. Therefore, the respondents cannot remove the petitioner again by citing the audit report. This Court is of the considered opinion that once the resolution is held as illegal, then the reappointment of the petitioner is perfectly valid and legally sustainable. Hence, the removal of the petitioner for the second time is illegal.

7. The learned counsel appearing for the respondent relied on the counter and submitted that the petitioner has to remit an amount of Rs.97,262/- to the Society due to certain discrepancies. Therefore, the petitioner cannot claim any terminal benefits for his resignation. Such a plea cannot be entertained. Since this Court is already held the resolution is illegal, the petitioner is entitled to reinstatement. Hence, the award passed by the Labour Court cannot be sustained in law and the same is set aside. The respondents are directed to reinstate the petitioner. The petitioner is entitled to continuity of service. Generally, the petitioner is not entitled to backwages under the principles of 'No Work No Pay', since this Court has held the resolution is illegal, the petitioner is entitled to 50% of backwages. This order shall be implemented



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within a period of four (4) weeks from the date of receipt of a copy of this order.

8. In view of the above, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

26.04.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The President,
TYSPL 29, Nagar Primary Agricultural
Co-operative Credit Society Limited,
Lalgudi Taluk,
Tiruchirappalli District.



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S.SRIMATHY, J.

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