



W.P.No.11562 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.No.11562 of 2006

The Liquidation Officer,
Handloom and Powerloom Department,
26/31, Sagadevapuram Extension,
Salem – 636 007.

...Petitioner

Vs

1.The Labour Court,
Salem.

2.S.Alagarasan

3.The Management,
Salem Co-operative Intensive,
Development Project,
Arisipalayam Main Road,
Salem – 9.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the preliminary order of the first respondent dated 27.05.2004 in I.D.No.19/99 and the Award of the first respondent dated 13.09.2005 in I.D.No.19/99 and quash the same.

For Petitioner	: Mr.K.Selvaraj
For R1	: Court
For R2 & R3	: No appearance



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ORDER

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This Writ Petition has been filed to call for the records relating to the preliminary order of the first respondent, dated 27.05.2004, in I.D.No.19/99 and the Award of the first respondent, dated 13.09.2005, in I.D.No.19/99 and quash the same.

2.It is the submission of the learned counsel for the petitioner that when the second respondent was working in the third respondent's office, he had misappropriated Rs.7,44,666.90 by writing false accounts in the Textile Stock Registers. He had also caused a loss of Rs.56,278.50 by his wilful omission and commission. He was given a charge memo on 06.06.1995. Since his explanation was not satisfactory, a domestic enquiry was ordered. The domestic enquiry was commenced on 23.08.1995 and completed on 27.12.1995. The management had submitted 123 documents through two witnesses. The second respondent did not examine any witness and produced any documents. The second respondent fully participated in the enquiry and he availed the full opportunity to defend his case. The enquiry officer submitted his report dated 17.05.1996, holding that all the four charges against the second



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respondent stood proved. The second show cause notice was issued on him on 03.06.1996. The second respondent did not submit his explanation. After following necessary procedure, the second respondent was terminated from service by an order dated 17.07.1996.

3.He further submitted that the second respondent raised an industrial dispute in I.D.No.19/99. In the said industrial dispute, petitioner was not impleaded as respondent. The third respondent got liquidated on 27.02.1998. The industrial dispute was raised at a later point of time on 23.12.1998. The second respondent had not chosen to implead the petitioner as one of the respondents. However, the second respondent filed a petition in IA No.360/2004 and got the petitioner impleaded in I.D.No.19/99 as per the orders passed in IA No.360/2004 on 27.10.2004. In the preliminary order passed, when the petitioner was not a party to the industrial dispute, the learned Tribunal ordered for production of evidence on the side of the respondent and adjourned the matter to 14.06.2004. This order was passed on 27.05.2004. Thereafter, petitioner got impleaded as second respondent. But without giving an opportunity to the petitioner, the learned Tribunal proceeded to dispose



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of the ID No.19/99 stating that the petitioner has not produced any evidence in support of his case. As already stated, 123 documents had been produced in the domestic enquiry. In the said circumstances, the learned counsel for the petitioner seeks to set aside the order for giving an opportunity to the petitioner to produce the evidence in support of the petitioner's case.

4.Despite giving sufficient opportunity, there is no representation for second and third respondents. Therefore, this Court directed the Registry to print the names of the second and third respondents in the cause list. Accordingly, their names are printed in the cause list.

5.The learned counsel for the petitioner had taken the efforts to issue paper publication, informing the parties that this matter will be heard today (05.02.2024). Despite that, there is no representation for second and third respondents. Therefore, this Court proceeded to dispose of this matter.



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6.In the light of the facts extracted above, this Court finds that obviously petitioner was not given a proper opportunity for production of the records in support of the petitioner's case. In the case before hand, it is the case of the petitioner that petitioner has 123 documents in support of termination of the second respondent. The learned Tribunal proceeded to dispose of the ID No.19/99, without giving an opportunity to the petitioner, after impleadment. In the said circumstances, this Court has no option except to set aside the award passed by the learned Tribunal and remit the matter back to the learned Tribunal, for giving an opportunity to the petitioner to produce necessary evidence and for fresh disposal of the matter on merits and in accordance with law. The learned Tribunal, is directed to issue fresh notice to the parties and dispose of the ID No.19/99 as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

7.In the result, the award passed by the learned Tribunal is set aside and the matter is remitted back to the learned Tribunal, for giving an opportunity to the petitioner to produce necessary evidence and for fresh disposal of the matter on merits and in accordance with law. The



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learned Tribunal, is directed to issue fresh notice to the parties and dispose of the ID No.19/99 as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

8.Accordingly, this Writ petition is disposed of. No costs.
Consequently, connected miscellaneous petition if any is also closed.

05.02.2024

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

NCC: Yes/No

To

1.The Labour Court,
Salem.

2.The Management,
Salem Co-operative Intensive,
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G.CHANDRASEKHARAN, J.

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