



W.P.No.23547 of 2003

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.11.2024

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.23547 of 2003

The Management
I I 92, Thirunavalur,
Farmers Service Co.op.
Society Ltd.,
Thirunavalur,
Ulundurpet Taluk.

...Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.Vinayagam (Deceased)

3.Vasantha

4.Selvi

5.Venkatesan

6.Balamurugan



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7.Natarajan

...Respondents

(R3 to R7 substituted as Lrs of deceased second respondent vide order dated 04.01.2023 made in W.M.P.No.28107 of 2022 in W.P.No.23547 of 2003 by JNBJ)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue Writ of Certiorari or any other appropriate Writs, Orders calling for the records comprised in I.D.No.97 of 1995 dated 31.12.2002 on the file of Labour Court, Cuddalore, the first respondent herein and to quash the same.

For Petitioner	: Mr.P.P.Shanmugasundaram
For Respondents	: Mr.R.Surendran for R1 (Additional Government Pleader)
For R2 to R7	: No appearance

ORDER

The Management of Thirunavalur Farmers Service Co-operative Society, Thirunavalur u Taluk, has filed the present Writ Petition challenging the award of the Labour Court, Cuddalore in I.D.No.97 of 1995 dated 31.12.2002.



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2.Originally, the second respondent in the Writ Petition Vinayagam was the workman. He was working as an attender. While so, charge memorandum was issued against him on 09.09.1986 containing three charges. The charges are that the said Vinayagam did not report for work from 04.08.1986 and remained unauthorisedly absent. The second charge is that he failed to maintain the records which are entrusted to him. The third charge is that when he got the amounts from the members of the petitioner Society while performing the recovery duty, without accounting for the same he has mis-appropriated the amounts. Domestic enquiry was duly conducted as against the petitioner and by an order dated 05.01.1988, he was dismissed from service. Thereafter, after time lag of seven years, in the year 1995, the petitioner raised the present industrial dispute. The conciliation being failed, the petitioner filed a claim petition which was resisted by the management. Initially, by a preliminary award dated 03.07.1998, the Labour Court found that the procedure adopted in the domestic enquiry was unfair and therefore as per the prayer of the respondent management, the matter was thereafter taken up for considering the proof of charges on merits.



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3. During the enquiry before the Labour Court on behalf of the workman, one Vinayagam was examined W1 and exhibits Ex.W1 to W15 were marked. On behalf of the management no witness were examined. But, however, Ex.M1 to M10 were marked.

4. As far as the first charge is concerned, the Labour Court has found that the workmen had sent a leave application by post requesting for medical leave up to 30.09.1986 and the said letter was returned as refused. Therefore, the Labour Court held that the first charge as not proved. However, it can be seen that the petitioner was absent from duty on 04.08.1986 and even after 30.09.1986 he did not report for work. Therefore, the said finding of the Labour Court cannot be countenanced. As far as the second charge is concerned, the Labour Court simply found that there is no proof of entrustment with reference to the maintenance of registers as well as the mis-appropriation. It must be seen that the charge memo itself is very clear, categorically detailed that the deceased workman had collected a sum of Rs.435 from one of the member Narayanasamy bearing membership number 4308 on 14.07.1984 and that he mis-appropriated the same. While the



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deceased workman submitted explanation explaining the charge number one, that he had sent a leave letter, he has not given any explanation with reference to the second and third charges seeking to inspect the documents. Similarly, another instance that he has recovered a sum of Rs.695 from one Ramakrishnan Naidu bearing membership No.314 and loan No.3684 on 18.08.1979 is also specifically alleged.

5.It is the case of the management that only upon the above misappropriation being found out by the management, the second respondent workman suddenly stopped reporting for work. During the domestic enquiry as well as before the Labour Court the concerned proceedings of the special officers were duly marked. Therefore, when the workman had not even attempted to give an explanation with reference to the said charges and when the charge is very clear and categorical that he has misappropriated the amounts, I am of the view that the findings of the Labour Court that the said charges were not proved is perverse requiring interference by this Court. Pending the Writ Petition, the second respondent workman had also since passed away and their legal heirs are impleaded as respondent Nos.3 to 7. Eventhough notices were served, they also



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chose not to contest the present Writ Petition. For all the above findings, the award of the Labour Court, is unsustainable.

6. Accordingly, the Writ Petition is allowed. The award passed by the Labour Court, Cuddalore in I.D.No.97 of 1995 dated 31.12.2002 is set aside and the order of dismissal of the deceased second respondent originally passed by the management stands upheld. No costs.

05.11.2024

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Neutral citation : Yes/No

To

The Presiding Officer,
Labour Court,
Cuddalore.



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D.BHARATHA CHAKRAVARTHY, J.,

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