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W.P.No.17434 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.17434 of 2015 and
M.P.No.1 of 2015

G.Ramasamy

... Petitioner

Vs.

1.The President / The Management,
E.T.1064, T.Chinnathambipalayam
Milk Producers Co-operative Society Limited,
T.Chinnathambipalayam 637 209,
Tiruchengode Taluk.

2.The Presiding Officer,
Labour Court, Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in I.D.No.184 of 2000 dated 04.03.2013 holding that the termination is justified and quash the same and to direct the first respondent herein to reinstate the petitioner with the continuity of service, backwages and all other consequential benefits.

For Petitioner : Mr.G.Purushothaman
For Respondents : Mr.N.Manokaran



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ORDER

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This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in I.D.No.184 of 2000 dated 04.03.2013 holding that the termination is justified and quash the same and also to direct the first respondent herein to reinstate the petitioner with continuity of service, backwages and all other consequential benefits.

2. Heard Mr.G.Purushothaman, learned counsel for the petitioner and Mr.N.Manokaran, learned counsel for the respondent and perused the materials available on record.

3. The industrial dispute raised by the petitioner has been dismissed by holding that the punishment of dismissal has been imposed on the petitioner only for the proved misappropriation and other allegations. Despite the petitioner has been given with several charges, at the conclusion of the disciplinary proceedings, only three charges have been proved against him. One among the charges proved was that he was



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holding the post of Ward Member in D.Pudupalayam Panchayat. It is against the bylaws of the Society and he has misappropriated a sum of Rs.1,562/- during the period between 24.08.1997 and 30.08.1997 and then he had permitted the public to use the office phone of the Society.

4. The learned counsel for the petitioner submitted that the petitioner has sought prior permission for holding the post of Ward Member and hence, there is no violation of the rules. He further submitted that the charges in respect of misappropriation is also not supported by any evidence and the learned Labour Judge has not appreciated the evidence in a fair and proper manner.

5. However, the counter argument of the learned counsel for the respondents is that the petitioner has raised a plea of having obtained prior permission for standing in the election for Ward Member only in this Writ Petition, even for that, he did not produce any documents. It is further submitted that the charge as to the misappropriation has been proved by the documents and the petitioner did not disprove the said allegations.



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6. On perusal of the records, it is seen that the petitioner himself has admitted that he was holding the post of Ward Member in D.Pudupalayam Panchayat. The Co-operative Society Rules stipulates conditions of service for the officers and servants of the Society, which are extracted hereunder:

"149. Conditions of service of paid officers and servants of Societies:--

.....

(6) No employee of a Society shall contest or canvass or otherwise interfere or use his influence in connection with or take part in any election to any Legislature, Parliament or local authority or any institution constituted under any State or Central Act except with the previous permission of the Board.

(7) (a) No employee shall accept any employment or work elsewhere, whether honorary or otherwise except with the previous permission of the Board.

(b) No employee shall engage himself in any trade or business outside the scope of his duties either in his name or in the name of any member of his family or relative except with the previous permission of the



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Board."

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7. The petitioner has violated the above rule by holding the post of Ward Member and he being the employee of the Society, he should not hold such a post. So far as the charges of misappropriation is concerned, it is borne by the records that it has been produced by the Management before the Labour Court which as Ex.M4. After finding the report given in this regard, the petitioner has also been subjected to surcharge proceedings. Despite the fact finding as to misappropriation has been given after a thorough enquiry, the petitioner did not produce any evidence to disprove the same. The petitioner has challenged the surcharge proceedings in CMA.No.37 of 2012 and the same was also dismissed.

8. The learned counsel for the petitioner submitted that the petitioner had paid the entire amount to the Society. But it is difficult to accept such a stand because the payment of the loss caused to the Society will not absolve the petitioner from the charge of misappropriation. Since the Labour Judge has arrived at a conclusion by properly appreciating the



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materials produced before the Labour Court, I do not find any grounds to interfere with the order of the Labour Court.

9. In view of the above observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

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To

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R.N.MANJULA, J.

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