



W.P. Nos.21310 of 2012 and 290 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM:
THE HON'BLE MR. JUSTICE P. DHANABAL

W.P. Nos.21310 of 2012 and 290 of 2014 & M.P. No.1 of 2012

The Management
Thiruvalluvar Weavers Cooperative Society
Meenachipettai
Kurinjipadi Post

Petitioner in W.P. No.21310/2012
vs.

1. The Presiding Officer
Labour Court
Cuddalore

2. M.D. Ramalingam
No.9, Thiruvalluvar Weavers Cooperative
Society Quarters
Meenachipettai
Kurinjipadi Post

Respondents in W.P.No.21310/2012

M.D. Ramalingam
No.9, Thiruvalluvar Weavers Cooperative
Society Quarters
Meenachipettai
Kurinjipadi Post
Cuddalore District

Petitioner in W.P.No.290/2014
vs.

1. The Presiding Officer
Labour Court, Cuddalore

2. The Management
Thiruvalluvar Weavers Cooperative Society
represented by its Manager
Meenachipettai
Kurinjipadi Post
Cuddalore District

Respondents in W.P.No.290/2014

Prayer in W.P.No.21310 of 2012:



W.P. Nos.21310 of 2012 and 290 of 2014

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the proceedings dated 18.07.2011 in I.D. No.9 of 2002 on the file of the first respondent and quash the same.

Prayer in W.P. No.290 of 2014:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the proceedings dated 18.07.2011 of the first respondent in I.D.No.9 of 2002 and quash the same in respect of disallowing the backwages and continuity of service.

W.P.No.21310 of 2012:

For petitioner	Mr. P.S. Sivashanmugasundaram
R1	Court
R2	Mr. M. Devaraj

W.P.No.290 of 2014:

For petitioner	Mr. M. Devaraj
R1	Court
For R2	Mr. P.S. Shivashanmugasundaram

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COMMON ORDER



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Inasmuch as these two writ petitions emerge from one and the same award, *viz.*, award dated 18.07.2011 passed by the Labour Court, Cuddalore, ("Labour Court" for brevity) in I.D.No.9 of 2022, they are considered and decided by this common order.

2. While W.P.No.21310 of 2012 has been filed by the Management of Thiruvalluvar Weavers Cooperative Society challenging the aforesaid award insofar as it relates to reinstatement, W.P.No.290 of 2014 has been filed by one Ramalingam, an employee of the said Cooperative Society, calling into question the legality and validity of the award insofar as it denies him backwages and continuity of service.

3. To avoid verbosity and also for the sake of clarity, the two contesting parties will be adverted to as "Management" and "workman".

4. The facts which are germane and necessary for deciding these two writ petitions are succinctly stated as under:

4.1 The workman joined as Accountant with the Management on 01.07.1988. On 06.12.1995, he was suspended from service on the



ground that he was responsible for shortage of stocks. Following that, he was issued with a charge memo dated 12.03.1996.

4.2 The gist of the charges was that:

- i. he failed to properly account for the stocks, thereby, causing loss to the Management to the tune of Rs.4,39,208.80 which is tantamount to dereliction of duty;
- ii. to avoid repayment of the said amount, he stopped coming to work; and
- iii. with ulterior motive, he had sent an envelope containing blank papers.

4.3 After a span of over two years, the workman was issued with a notice dated 24.06.1998 stating that he had not given his explanation to the charge memo and that as per the report of the Enquiry Officer, the workman has to pay a sum of Rs.4,39,208.80 and in the event of his non-payment of the said amount, he will be dismissed from service.

4.4 In response, the workman submitted his reply dated 30.06.1998 stating *inter alia* that:

- i. he had already given his explanation to the charge memo on 04.04.1997 and 22.07.1997;



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- ii. no domestic enquiry, as claimed by the Management, was held;
- iii. only the then Controller, *viz.*, A.S. Rasamannar is solely responsible for the shortage of stocks; and
- iv. even in the enquiry conducted under Section 81 of the Tamil Nadu Cooperative Societies Act, he had given a detailed statement.

4.5 Subsequently, on the request made by him, *vide* proceedings dated 21.09.2000, the workman was provided with a copy of the report of the Enquiry Officer and he was also asked to show cause as to why he further action should not be taken against him. The workman submitted his explanation dated 30.09.2000 denying the charges. However, not satisfied with the same, eventually, the Management dismissed the workman from service on 20.12.2000.

4.6 Since conciliation proceedings did not fructify, the workman raised an industrial dispute being I.D.No.2 of 2022 before the Labour Court challenging the dismissal order.

4.7 Before the Labour Court, the workman examined himself as the sole witness and marked four exhibits. For its part, the Management examined its Manager alone and marked six exhibits.

4.8 The Labour Court, on consideration of the evidence on



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record and the submissions advanced on either side, *vide* award dated 18.07.2011, set aside the dismissal order. However, considering the facts and circumstances, the Labour Court rejected the workman's plea *qua* backwages and continuity of service. In effect, the Labour Court allowed the industrial dispute in part.

4.9 Thereagainst, the instant writ petitions have been filed as explained in paragraph no.2, *supra*.

5 The learned counsel for the Management contended that though opportunity was afforded to the workman in the domestic enquiry, he did not avail of the same and hence, he is estopped from taking a stand that the domestic enquiry is vitiated and consequently, the charges were not proved. He further contended that since the charges were held proved in the domestic enquiry and the workman's explanation also was far from satisfactory, he was inflicted with the major punishment of dismissal from service; however, the Labour Court, by improper appreciation of evidence on record, had incorrectly set aside the dismissal order and hence, the award of the Labour Court warrants interference.

6. *Per contra*, the learned counsel for the workman contended



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that though the Labour Court had categorically held that the charges levelled against the workman were not proved, and also awarded reinstatement, no reason whatsoever has been assigned by the Labour for depriving the workman of backwages and continuity of service. In short, according to the learned counsel, the Labour Court is not justified in not granting backwages and continuity of service without assigning any reason therefor, especially after having held that the charges were not held to be proved and eventually, passing an award of reinstatement.

7. This Court gave its anxious thought and consideration to the rival submissions and also perused the materials available on record.

8. At the outset, in passing, this Court deems it pertinent to point out that as per the averment in the writ affidavit of the Management, the value of loss of stocks works out to Rs.5,20,399.85, whereas, according to the averment in the writ affidavit filed by the workman, the loss works out to Rs.4,39,208.80. This Court does not deem it necessary to go into this difference in amount of loss as it hardly matters the decision making in this case.

9. It is not in dispute that the workman was employed with the Management. It is also an admitted fact that the workman did not



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participate in the enquiry. In this regard, the stand of the Management is that though a notice of enquiry was sent to the workman, he did not avail of the opportunity to partake in the enquiry and he chose to remain *ex parte*. But, this Court is at a loss to understand as to why and how the report of the Enquiry Officer, which is a very material document, was omitted to be marked by the Management before the Labour Court. There was no explanation forthcoming in this regard from the learned counsel for the Management.

10. Secondly, even as per the version of M.W.1 (Manager), neither inspection report nor audit report was filed against the workman as regards shortage of stocks for which the workman was held liable. That apart, even according to M.W.1, there was no misappropriation committed by the workman. Further, though it was deposed by M.W.1 that action was taken against the workman under Section 81 of the Tamil Nadu Cooperative Societies Act, not even a shred of paper pertaining to Section 81 proceedings was marked before the Labour Court. Based on these shortcomings on the side of the Management, the Labour Court had come to the conclusion that the charges were not held to be proved, much less satisfactorily.

11. In the light of the aforesaid findings, this Court is of the view



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that the Labour Court is perfectly justified in awarding reinstatement to the workman and the same is accordingly confirmed. As a sequitur, W.P.No.21310 of 2012 filed by the Management is liable to be dismissed and it is accordingly dismissed.

12. Coming to deprivation of backwages and continuity of service, it is pertinent to point out that from the date of suspension, *i.e.*, 06.12.1995, till the date of dismissal, *i.e.*, 20.12.2000, for over five years, the workman was not paid subsistence allowance. Be it noted, it was not at all the case of the Management that the workman was gainfully employed. Further, the Labour Court has held in no uncertain terms that the charges levelled against the workman were not held to be proved. Despite recording the fact that the workman was not paid subsistence allowance and also returning a finding that the charges were not held to be proved, it is beyond the understanding of this Court as to how the Labour Court could deny grant of continuity of service and backwages and that too, without assigning any reason for such deprivation. Hence, denial of backwages and continuity of service by the Labour Court sans any reasoning cannot be countenanced. At this juncture, this Court is reminded of the sagely observation of the Supreme Court that reason is the heartbeat of every conclusion and without the same, the conclusion becomes lifeless [*See State of Orissa vs. Dhaniram Luhar*



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(2004) 5 SCC 568].

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13. In view of the reasonings given in paragraph 12, *supra*, and also considering the facts and circumstances of the case, this Court holds that the workman is entitled to continuity of service and also 30% backwages. Accordingly, W.P.No.290 of 2014 stands allowed in part.



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To sum up, W.P.No.21310 of 2012 is dismissed and W.P.No.290 of 2014 is partly allowed. No costs. Connected M.P. stands closed.

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To

The Labour Court
Cuddalore



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P. DHANABAL, J.

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Common order in
W.P. Nos.21310 of 2012 and 290 of 2014

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