



W.P.Nos.4506 & 21285 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.4506 & 21285 of 2019
and W.M.P.Nos.20492 & 21285 of 2019

W.P.No.4506/2019

M.Selvam

...

Petitioner

/Vs./

1. The Management,
Tamil Nadu Co-operative Milk Producers Federation (TCMPF),
Rep. by its Managing Director,
Aavin Illam,
Madhavaram Milk Colony,
Chennai – 600 051.

2. Joint Managing Director,
Tamil Nadu Co-operative Milk Producer's Federation (TCMPF),
Transport Division,
Aavin Illam,
Madhavaram Milk Colony,
Chennai – 600 051.

... Respondents



W.P.Nos.4506 & 21285 of 2019

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the concerned records from the I Additional Labour court, Chennai, quash the award dated 18.05.2015 passed in I.D.No.160/2013 by the I Additional Labour Court, Chennai in so far as declining the relief of reinstatement with full back wages, continuity of service and all other attendant benefits as illegal, arbitrary and contrary to law and consequently direct the respondents to treat the petitioner to be in service for the period from 28.02.2011 being the date of dismissal to 31.12.2018 being the date when the petitioner attains the age of superannuation and pay the petitioner back wages, all other attendant benefits and terminal benefits.

For Petitioners ... Mr. Balan Haridas

For Respondents ... Mr.R.Bala Ramesh

W.P.No.21285/2019

1. The Managing Director,
The Tamil Nadu Co-operative Milk
Producers Federation (TCMPF),
Aavin Illam, Madhavaram Milk Colony,
Chennai – 600 051.

2. The Joint Managing Director,
Tamil Nadu Co-operative Milk
Producers Federation (TCMPF),
Transport Division, Aavin Illam,
Madhavaram Milk Colony,
Chennai – 600 051.

...

Petitioners



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/Vs./

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M.Selvam (Deceased)

2. S.Lakshmi

3. S.Rajesh

4. S.Sathish

... Respondents

(R2 to R4 are substituted as LR's of deceased sole respondent vide order dated 16.09.2021 made in W.M.P.No.1924582021 in W.P.No.21285/2019)

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records relating to the order dated 18.05.2018 passed in I.D.No.160 of 2013 on the file of the I additional Labour Court, Chennai and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner ... Mr.R.Bala Ramesh

For Respondents ... Mr.Balan Haridas

COMMON ORDER

For the sake of convenient discussion, the workmen is referred as the petitioner and the Management is referred as respondent.



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2. The petitioner has been issued with the charges that he bought Trucks in the name of his wife without getting prior permission from the Management. Without getting prior permission, he registered a business in the name of his wife and was doing contract business with the respondent federation and he also participated in the meeting conducted by the Contractors in the Deputy General Manager's cabin on 07.08.2007 on behalf of his wife. Having found that these acts of the petitioner is in violation of the Rule 7(b) of The Tamil Nadu Co-operative Societies Act, 1983, Rule 16 of the Tamil Nadu Industrial Employees Standing Order Act 1947 and Rule 16 (i) and 2 of Special by-law related to service conditions of TCMPF Conduct, Discipline and Appeal Rules, after conducting the enquiry, the above charges were found to be true and the petitioner was awarded with the punishment of dismissal. The appeal preferred by him was also dismissed. The petitioner has filed an Industrial Dispute claiming that the dismissal is illegal. During the course of the proceedings before the Labour Court, the Management examined three witness M.W.1 to M.W.3 and marked Exs.M1 to M26 and the petitioner examined himself as W.W.1 and marked Ex.W1 to W22.



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3. In the explanation submitted by the petitioner to the memo given to him he has stated that he has divorced his wife. But quite contrary to that in one of the request which is marked as Ex.M9 dated 16.12.2009, the petitioner is seen to have stated that he is living as a joint family with his mother, wife and children. Having found that there was no exchange of notices prior to the filing of the divorce petition which was kept in the SR stage, the petitioner appears to have attempted to create a make-belief story that he has been legally separated from his wife. The petitioner failed to establish his defense because he did not get any divorce. Whatever may be the case, at the time when the vehicles were purchased, the marriage between himself and his wife was in existence and he did not produce any document to show that the relationship between himself and his wife was dissolved.

4. One more crucial piece of evidence that came to the appreciation of the Labour Court was the letter submitted by the wife of the petitioner to the Managing Director informing that all the three vehicles have been sold out and the contract has also been cancelled vide Ex.W15. Even that piece



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of evidence has shown the concern the wife of the petitioner had for him as he was given with the charges. As the petitioner went to the extent of telling lies that he had divorced his wife for the purpose of escaping from the charges and he had purchased the vehicle in the name of his wife without getting any prior permission and registered business in the name of his wife and vested business in the name of his wife and was doing business with the federation by attending meetings, etc., the Labour Judge found that the findings of the Enquiry Officer is correct as the conduct of the petitioner was also not up to mark as he had disowned his relationship with his wife for the sake of the charges issued to him.

5. The labour Court did not intend to show much mercy in modifying the punishment as compulsory retirement. In my view the above order of the learned Labour Judge is quite reasonable and appropriate in the context of the given facts. Hence, I do not find any reason either to enhance the punishment or to reduce the punishment by making any further modification. However, I feel, the respondents shall disburse any of the eligible terminal benefits to the petitioner, within a period of four



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weeks from the date of receipt of a copy of this order.

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6. In the result, these Writ Petitions are dismissed. No costs.

Connected miscellaneous petitions are closed.

25.09.2024

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation Case: Yes / No

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To:

The I Additional Labour court,
Chennai.



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R.N.MANJULA ,J.

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