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W.A.No.1920 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

CORAM

THE HONOURABLE Mr.JUSTICE **M.S. RAMESH**

AND

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

W.A.No.1920 of 2024

S.Ravikumar

... Appellant

Vs.

The President,
(Previously Special Officer),
Washermanpet Co-operative Stores Ltd., XNC-589,
Old No. 91/2, New No.248,
P.A.N. Rajarathinam Road,
Washermanpet,
Chennai – 600 021.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the impugned order of the learned Judge dated 18.12.2023 in W.P. No. 25992 of 2019.

For Appellant : Mr. Rajaram
For Respondent : Mr. G.Saravanabhavan

J U D G M E N T



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WEB COURT **C.KUMARAPPAN, J.**

The instant Writ Appeal arising out of the order of the learned Single Judge in W.P. No. 25992 of 2019 dated 18.12.2023.

2. The short fact to be decided in the instant writ appeal is whether the order of the Labour Court, having no findings regarding on the fairness of the domestic enquiry, is proper or not.

3. The learned counsel appearing on behalf of the appellant/workman would vehemently contend that though they have raised serious disputes regarding the fairness of the enquiry, the Labour Court, while disposing of the industrial dispute in I.D. No. 325 of 2012 on 24.01.2017, did not frame any issue as to the fairness of the enquiry and failed to decide such material aspect. It is further contended that, when serious disputes were raised regarding the fairness of the enquiry, it is incumbent upon the Labour Court to render finding on the same. It was also contended that the learned single Judge has also not considered that material aspect.

4. Per contra, the learned counsel for the respondent/Management



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would vehemently contend that, the workman raised industrial dispute against the order of termination passed on the basis of the charge of misappropriation, and that the workman has deliberately delayed the proceedings, and that though the industrial dispute was raised during 2012, they dragged on the matter for over five years, are ultimately got it disposed of only during 2017. The learned counsel for the respondent/Management further contended that they have followed all due procedures and natural justice. Therefore, contended that the finding rendered by the Labour Court is liable to be confirmed.

5. We have given our anxious consideration to either side submissions.

6. The entire issue centers around the point, as to whether the Labour Court has to render finding regarding the fairness of enquiry, when the same is under challenge. In this regard, it is useful to refer to the judgment of the Hon'ble Supreme Court of India in ***Cooper Engineering Limited vs. P.P. Mundhe*** (Civil Appeal No. 1716 of 1969, dated 20.08.1975). The relevant paragraph is paragraph 19, and the same reads as follows:-

*“19. We are, therefore, clearly of opinion that
when a case of dismissal or discharge of an employee*



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is referred for industrial adjudication the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the Labour Court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue. We should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award. It will be also legitimate for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication.”

As per the above Full Bench decision, when the fairness of the enquiry, is under challenge, it is mandatory for the Labour Court to address the said issue. However, in the instant case, the Labour Court admittedly did not



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render any finding with regard to the fairness of the enquiry, which could seriously prejudice the workman, apart from contravening the settled legal principle. Therefore, since the material issue remains undecided, it would be appropriate to set aside the award and remit the matter to the Labour Court to dispose of the industrial dispute afresh in accordance with the law. It is pertinent to mention here that the learned Single Judge did not not consider this aspect.

7. Accordingly, the award of the II Additional Labour Court, Chennai passed in I.D. No. 325 of 2012 and the order of the learned single Judge, are set aside and the Industrial Dispute is remitted back to the II Additional Labour Court, Chennai to dispose of the same afresh, in accordance with law. Considering the long pendency of the issue, we expect the Labour Court, Chennai to conclude the industrial dispute as expeditiously as possible, preferably within a period of six months, from the date of receipt of a copy of this judgment.

8. In the result, this Writ Appeal is ordered. No costs.

[M.S.R., J.] [C.K., J.]



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Index : Yes/No
Speaking order /Non Speaking Order
Neutral Citation : Yes/No

To

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