



W.P.No.7469 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.7469 & 9810 of 2015 and
W.P.No.15264 of 2016 and
W.M.P.No.13316 of 2016 and
M.P.No.1 of 2015

W.P.No.7469 of 2015

G.Ezhilarasan

... Petitioner

Vs.

1.The Joint Registrar of Coop.Societies,
Ariyalur Region, Ariyalur,
Ariyalur District.

2.The Deputy Registrar of Coop. Societies,
Ariyalur Circle, Ariyalur, Ariyalur District.

3.The President,
Ty.Spl.84, Kottiyal Primary Agricultural
Coop. Credit Society,
Kottiyal Village & Post,
T.Palur via, Udayarpalayam Taluk,
Ariyalur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to reinstate the petitioner into service as Cashier in the third respondent Society with all



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attendant benefits and other monetary benefits by implementing the award dated 30.09.2014 passed in I.D.No.38 of 1999 on the file of the Labour Court, Trichy.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.L.P.Shanmugasundaram for R3
Mr.S.Ravikumar, SGP for R1 & R2

W.P.No.9810 of 2015

The Management,
Ty.Spl 84, Kottiyal Primary Agricultural
Co-operative Credit Society,
Rep by its President,
Kottiyal Village & Post,
T.Palur, via., Udayarpalayam Taluk,
Ariyalur District.

... Petitioner

Vs.

1.G.Ezhilarasan

2.The Presiding Officer,
Labour Court,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the passing of the award in I.D.No.38 of 1999 dated 30.09.2014 on the file of the Labour Court, Trichy, passed by the second respondent and quash the same.

For Petitioner : Mr.L.P.Shanmugasundaram
For Respondents : Mr.C.Prakasam for R1

W.P.No.15264 of 2016



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The Management,
Ty.Spl 84, Kottiyal Primary Agricultural
Co-operative Credit Society,
Rep by its President,
Kottiyal Village & Post,
T.Palur, via., Udayarpalayam Taluk,
Ariyalur District.

... Petitioner

Vs.

1.N.Krishnamoorthy

2.The Presiding Officer,
Labour Court,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the passing of the award in I.D.No.71 of 1999 dated 29.09.2014 on the file of the Labour Court, Trichy and quash the same.

For Petitioner : Mr.L.P.Shanmugasundaram
For Respondents : Mr.C.Prakasam for R1

COMMON ORDER

The Writ Petition in W.P.No.7469 of 2015 has been filed seeking direction to the respondents to reinstate him into service as Cashier in the third respondent Society with all attendant benefits and other monetary benefits by implementing the award dated 30.09.2014 passed in I.D.No.38 of 1999 on the file of the Labour Court, Trichy.

2. The Management has filed the Writ Petitions in W.P.No.9810 of



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2015 and W.P.No.15264 of 2016, seeking to quash the award passed by the Labour Court, Trichy, in I.D.No.38 of 1999 dated 30.09.2014 and I.D.No.71 of 1999 dated 29.09.2014.

3. Heard Mr.C.Prakasam, learned counsel for the workmen, Mr.S.Ravikumar, learned Special Government Pleader for the Co-operative Society and Mr.L.P.Shanmugasundaram, learned counsel for the Management and perused the materials available on record.

4. The allegation against the workmen is that while they were working as Cashier and Senior Clerk respectively, they have misappropriated Rs.70,000/- and Rs.1,50,000/- respectively and thereby caused loss to the Society. After having found the charges as proved, at the conclusion of the domestic enquiry, they were imposed with the punishment of dismissal from service. The workmen raised an industrial dispute by alleging that they were not involved in any misappropriation and that the statement of admission made during Section 87 proceedings was only out of threat and compulsion. The Labour Court while appreciating the industrial dispute filed by the workmen, has observed that the Management witness M.W.1 has stated during his cross-



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examination that he was not in charge of the Society during the relevant point of time. The Special Officer who was in charge at the relevant point of time was not examined as a witness before the Labour Court.

5. Even though the Management has taken a stand that the workmen have admitted their liability during Section 87 surcharge proceedings and executed the admission letter, the same was denied subsequently stating that it was not executed by the workmen on their own volition, but only out of threat and compulsion. The charges framed against the workmen is that even without making any entries in the Register, the jewels pledged in the Society have been returned and the loan amount repaid was misappropriated by the workmen.

6. Unfortunately, none of the persons who have availed the loan has been examined as a witness on the side of the Management before the Labour Court to substantiate the fact that they had redeemed the jewels after repaying their loan. The further charge is that the workmen were negligent in not ensuring that all the jewels which have been pledged in the Society are available without any shortage. It appears that none of the



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persons have given any complaint that the jewels pledged by them are missing and neither they had been examined as witnesses nor it has been proved before the Labour Court that the workmen were in charge of the chest of the locker in which the jewels are safeguarded.

7. Further, the weight of the jewels and the eligible loan amount that can be given as against the jewels pledged cannot be determined by the workmen as they were not expert. The jewel appraiser of the Society was also not examined as a witness. He was examined as a witness neither during the domestic enquiry nor during the proceedings of the industrial dispute. So the Labour Court after having made a detailed discussion of the materials available on record, had rendered a finding stating that the charges against the workmen have not been proved. In fact the Labour Court has observed that the enquiry report has not been produced before the Court during the preliminary enquiry in order to show whether the enquiry has been conducted by complying the principles of natural justice.

8. In the event of the Court coming to the conclusion that there is violation of principles of natural justice, the Management has got the



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burden to prove the charges against the workmen. The Management did not discharge its burden. Hence, it is right for the Labour Court to arrive at a conclusion that the charges were not proved against the workmen and that the alleged admission of guilt during Section 87 proceedings cannot be the only document on which the Court can sustain the guilt against the workmen.

9. So far as the recovery under surcharge order is concerned, that has got no relevance to the charges and so the charges have to be proved before the Labour Court. It may be possible for an employee to become responsible for the loss and the liability to repay the loss though he has not misappropriated. This would largely arise when the concerned employee has been not vigilant to ensure that the fraudulent activities are not taken place in the Society. So the award of the Labour Court in holding that the charges against the employees were not proved, cannot be extrapolated to Section 87 proceedings fixing the liability against the employees. So irrespective of the fact of admitting the liability to pay the surcharge amount, the charges against the workmen have to be proved independently. As the admission of the surcharge amount does not have



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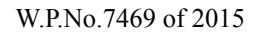
any bearing on the charges, which have to be proved separately, the appreciation of the evidence by the Labour Court, independent of the admission of the employees cannot be found fault with.

10. Accordingly, the Labour Court has appreciated the matter on the basis of the materials produced before it and found that the charges were not proved in a satisfactory manner. Since the Labour Court has rendered its finding by thoroughly scrutinising all the materials produced before it and by analysing the evidence in a proper perspective, I do not find any reasons to interfere with the order of the Labour Court.

11. In view of the above stated reasons, the Writ Petition in W.P.No.7469 of 2015 is disposed. The Writ Petitions in W.P.No.9810 of 2015 and W.P.No.15264 of 2016 are dismissed and the order passed by the Labour Court, Trichy in I.D.No.38 of 1999 dated 30.09.2014 and I.D.No.71 of 1999 dated 29.09.2014 are confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

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

22.10.2024



gsk

To

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Ariyalur Region, Ariyalur,
Ariyalur District.
2. The Deputy Registrar of Coop. Societies,
Ariyalur Circle, Ariyalur, Ariyalur District.
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R.N.MANJULA, J.

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