



W.P.No.13073 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.13073 of 2014

and

M.P.No.1 of 2014

S.C.Rushendra Mani

... Petitioner

Vs.

1. The Special Officer,
J.J.166 Devadhanam Primary Agricultural
Co-operative Bank Ltd.,
Devadhanam Village & Post.,
Ponneri Taluk, Tiruvallur District - 601 203.
2. The Presiding Officer,
I Additional Labour Court
High Court Buildings,
Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, call for records and quash the award dated 03.05.2013 in I.D.No.346 of 2008 is so far as it denies the relief of re-instatement and awarded compensation in lieu of reinstatement and consequently direct the first respondent to reinstate the petitioner in the post of attender with backwages, continuity of service and all other consequential and attendant benefits.

For petitioner : Ms.D.Nagasaila



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For R1 : Mr.Saber Ahamed
for M/s.Nithianandam
For R2 : Labour Court

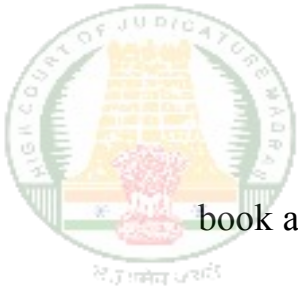
ORDER

This writ petition is filed seeking to quash the order dated 03.05.2013 passed in I.D.No.346 of 2008 insofar as denying the relief of reinstatement and granting compensation.

2. The facts in brief as per the affidavit enclosed in the writ petition are as follows:

2.1. The petitioner joined the respondent society on 01.02.1991 as a attender with a salary of Rs.3,086/- per month. During the course of his work the petitioner was issued a charge memo dated 28.07.1999 with seven following charges:

(1) The first charge was in respect of falsely entering Rs.905.20/- instead of sale proceeds of Rs.1,905/- in receipt No.354947 in the sub day



book and main day book on 15.09.1992.

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(2) The second charge was in respect of falsely entering Rs.288/- instead of sale proceeds of Rs.300/- in receipt No.354947 in the sub day book and main day book on 22.09.1992.

(3) The third charge was relating to misappropriation of Rs.11,382.50/- on 27.01.1993. It was alleged that the money receivable in receipt Nos.300193 to 300197 was misappropriated by the Secretary A.Subramaniam with the petitioner help.

(4) The fourth charge was in respect of falsely entering Rs.201.60/- instead of sale proceeds of Rs.1,704.60/- in receipt No.300322 in the sub day book and main day book on 15.03.1993 and misappropriating an amount of Rs.1503/-.

(5) The fifth charge was in respect of not making entries into the sub day book and main day book in respect of kerosene sale proceeds. It was alleged that the petitioner did not make entries in receipt Nos.314823



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(Rs.364/-) and 314864 (Rs.520.80) on 11.03.1994 and in receipt No.314865 (Rs.218.40/-) on 12.03.1994 and receipt No.314893 (Rs.260.40/-) on 24.03.1994 totally for an amount of Rs.1363.60/-.

(6) The sixth charge was in respect of making false entries and into the sub day book and main day book in respect of fertilizer sale proceeds for a total amount of Rs.12,739.58/-.

(7) The seventh charge was that on 24.02.1995 in loan No.662 the petitioner had obtained a loan from one Narasimhallu Naidu, S/o Veerasamy (Membership Number:584) for an amount of Rs.10,000/-.

2.2. An enquiry was conducted and the enquiry Officer submitted his final report on 16.05.2003 for which an explanation dated 20.08.2003 was given by the petitioner. Basing on the enquiry report the petitioner was terminated w.e.f. 15.03.2004.

2.3. The petitioner, out of his ignorance had approached the Joint



Registrar, Co-operative Societies, however, after seven to eight months, he was directed to approach the Labour Court, thereby he has filed an I.D.No.346 of 2008. On conclusion of the enquiry, the Labour Court passed an award dated 03.05.2003 holding that the termination orders passed by the respondent are not justifiable and while setting aside the same, directed the management to pay Rs.2,00,000/- as compensation to the petitioner in lieu of re-instatement of the petitioner. Aggrieved by the same, the present writ petition is filed.

3. It is submitted by the learned counsel for the petitioner/workman that the Labour Court has committed error in reaching the findings, the quantum of compensation was not properly calculated, failed to appreciate the fact and that the compensation amount was not paid so far as to the petitioner.

4. Counter affidavit has been filed by the first respondent.

5. It is submitted by the learned counsel for the first respondent that



after a period of three years of dismissal from service, the petitioner raised a conciliation proceedings and the Conciliation Officer had submitted his failure report dated 29.10.2007. Subsequently, an industrial dispute in I.D.No.346 of 2008 was raised by the petitioner. It is also further submitted by the learned counsel for the first respondent that the Labour Court after taking into consideration all the facts, has passed an award dated 03.05.2013 directing the first respondent to pay a sum of Rs.2,00,000/- as compensation to the petitioner, which is justifiable.

6. Heard both sides and perused the materials available on record.

7. There is no dispute that the petitioner was working as an Attender in the first respondent Society, Primary Agricultural Co-Operative Bank Limited, since the year 1991 and he was terminated and a charge memo was issued against him alleging that he has committed various mis-conducts and subsequently, seven charges were framed against him and the enquiry Officer has given a finding that all the seven charges were proved. Considering the same the petitioner was terminated w.e.f.15.03.2004. The



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petitioner has approached the Labour Court and filed an industrial dispute in I.D.No.346 of 2008 and the same was allowed by way of an impugned order setting aside the order of termination and directing the first respondent to pay a compensation of Rs.2,00,000/- instead of re-instatement. Aggrieved by the award passed by the Labour Court, insofar as not directing the first respondent to re-instate the petitioner, this present writ petition.

8. When this matter came up for hearing on 10.01.2024, it is reported by the learned counsel for the petitioner that the petitioner has reached the age of superannuation, thereby, this writ petition has become infructuous insofar as the prayer for re-instatement is concerned. However, the learned counsel for the petitioner has submitted that though the petitioner cannot be re-instated now, the compensation that was awarded in lieu of re-instatement is meager. Accordingly, both the learned counsel for the petitioner as well as the first respondent have made their submissions in respect of the quantum of compensation.

9. The first respondent management has not preferred any appeal as



against the award passed by the Labour Court. Once the termination orders were set aside, the petitioner should have been ordered to be re-instated in the position from which he was terminated. The Labour Court did not mention any reason as to why the petitioner was not directed to be re-instated instead compensation was awarded.

10. In respect of the quantum of compensation is concerned, normally if the termination order has been set aside, on the ground of irregular termination, then backwages should be ordered. There is no material placed by the petitioner that he was not gainfully employed. The petitioner has not pleaded that he was not gainfully employed. Though, there is no record the petitioner must have worked for his livelihood. Therefore, this Court is of the view that the petitioner would have worked gainfully at some place.

11. The learned counsel for the petitioner submitted a calculation memo projecting the amount which the petitioner would have received had he been re-instated. According to which the petitioner should have earned an



amount of Rs.37,09,612/-.

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12. On going through the findings of the Labour Court, it is clear that the Labour Court has not mentioned the reasons as to why Rs.2,00,000/- has been granted as compensation. In case if the petitioner was re-instated, the petitioner would have got Rs.37,09,612/-. There is a huge difference between Rs.2,00,000/- and Rs.37,09,612/-, the award granted by the Labour Court and the sum claimed by the petitioner respectively. The compensation amount of Rs.2,00,000/- is very meager. Hence, the same requires to be enhanced. Had the petitioner was given employment he would have got Rs.37,00,000/- but he could have rendered service to the respondents. Since he has not worked, the compensation cannot be equal to that of Rs.37,00,000/-.

13. Considering all the facts and circumstances this Court is of the opinion that an award of Rs.7,41,920/- can be awarded to the petitioner to met the ends of Justice. This court has considered and awarded one fifth of the money to the petitioner keeping in view of the fact that had he been



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reinstated.

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DR.N.NAGARJUN.J.,

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14. In view of the above, this writ petition is allowed in part directing the respondent to pay compensation to the petitioner to the tune of Rs.7,41,920/- (one fifth of Rs.37,96,000/-).Connected M.P. is closed.No costs.

12.01.2024

vca

Index : Yes/No
Internet : Yes/No
Citation : Yes/No

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