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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No. 3319 of 2024
and
C.M.P.No.25754 of 2024

The Management,
Vellore District Consumer Co-operative,
Wholesale Stores Ltd.,
Vellore.

...Appellant

Vs.

1.A.Rajamani

2.The Principal Labour Court,
Vellore District.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 25.03.2024 in W.P.No.7131 of 2015.

For Appellant : Mr.R.Balaramesh

For Respondents : Mr.Balan Haridas



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J U D G M E N T

(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)

We find that the issue raised in this writ appeal is squarely covered by the judgment of the Division Bench of this Court in ***The Tata Iron and Steel Co., Ltd., Vs. G.Ramakrishna Ayyar*** reported in **1950 LLJ 1043 Mad**, where, the Division Bench of this Court considered the power of the Authority under the Tamil Nadu Shops and Establishment Act to direct reinstatement [for brevity 'The Shops Act']. The very contention that was raised in the writ petition was raised before the Division Bench to the effect that the Authority under the Shops Act has no power to order reinstatement.

Considering that question, the Division Bench had held as follows:-

4. It is next contended by Mr. Ramakrishna Ayyar that in any event the order of the Commissioner was bad in so far as it directed a reinstatement in service of the first respondent. The argument was that there is no specific provision in the Act which enabled the authority to make an order of reinstatement. He referred us by way of analogy to the jurisdiction of Industrial Tribunals to make orders of reinstatement, but we think such reference is wholly irrelevant. To a certain extent we agree with the learned Counsel, namely, that the authority should not have said that the employee



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would be entitled to reinstatement. But this is only quarrelling with his language. Actually the legal position is this. The employer passes an order dispensing with the services of an employee. That order is carried on appeal to a higher authority. That authority reverses the decision of the employer and the result is that the order of the employer is set aside. It is no longer in existence. It follows that the effect of the original order of the employer also disappears and it is as if the order is non est. Though, therefore, it may not be quite accurate to say that the employee will entitled to reinstatement in service, yet the result of the order of the appellate authority is virtually the same. Probably, the result 6T the appellate order is even Better than an order of reinstatement. It is as if the employee had never been properly dismissed from service. In this view it is not necessary to quash the order of the appellate authority even in this respect.

2. In view of the above pronouncement, it is crystal clear that once the shop authority sets aside the order of reinstatement, the employee will be entitled to be presumed to be in service through out and there is no question of treating the period of absence, due to the order of dismissal, as leave on loss of pay.



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3. Hence, we do not see any reason to interfere with the order of the writ Court. The Writ Appeal therefore fails and it is accordingly **dismissed**.
No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (C.K., J.)
15.11.2024

dsa

Index : No
Internet : Yes
Neutral Citation : No
Speaking order



To

The Principal Labour Judge,
Vellore District.

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R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

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