



W.A(MD)No.703 of 2017

WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 03.04.2024**

**CORAM**

**JUSTICE N. SESHASAYEE  
and  
JUSTICE P.VADAMALAI**

W.A(MD) No.703 of 2017  
and  
C.M.P(MD)No.5462 of 2017

The Management,  
0.522-E, Kovilpatti Agricultural Producers  
Co-operative Marketing Society Limited,  
No.962, Sattur Road,  
Kovilpatti 628501,  
Tirunelveli District.

... Appellant/2<sup>nd</sup> respondent

Vs.

1.N.Manikandan

... 1<sup>st</sup> respondent/Petitioner

2.The Deputy Commissioner of Labour,  
(Commissioner workmen Compensation),  
Tirunelveli.

... 2<sup>nd</sup> respondent/1<sup>st</sup> respondent

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order made in W.P(MD)No.3870 of 2007 dated 17.02.2014.



W.A(MD)No.703 of 2017

For Appellant :Mr.M.E.Elango  
For R-1 :Mr.D.Srinivasaraghavan  
For R-2 :Mr.A.Baskaran,  
Additional Government Pleader

### JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

The present writ appeal is filed by the second respondent in the writ petition challenging the order passed by the learned Single Judge in W.P(MD)No.3870 of 2007, dated 17.02.2014.

2. The writ petition came to be filed to set aside the proceedings of the first respondent, the Deputy Commissioner of Labour, dated 30.06.2006, by which he had confirmed the proceedings of the second respondent, dated 03.01.2002.



W.A(MD)No.703 of 2017

WEB COPY

3. The brief facts are that the writ petitioner, while he was working as an employee/packer in Kadampoor Fair Price Shop which is under the control of the second respondent, had been issued with the show-cause notice *vis-a-vis* certain shortage in the stock. He was duly suspended from service and subsequently, post enquiry, he was terminated from service. This proceedings of the second respondent later came to be confirmed by the first respondent. It is in these circumstances, a writ petition came to be filed challenging the order stated above.

4. There are composite allegations against the writ petitioner and one pertains to shortage of stock for which he is answerable. The other allegation relates to certain acts of insubordination by the writ petitioner.

5. The learned Single Judge has taken note of the fact that another staff of the fair price shop has taken responsibility for the shortage of stock and has also repaid the value thereof.



W.A(MD)No.703 of 2017

WEB COPY

6. The learned counsel for the appellant however contended that the allegation was made jointly and severally against both the salesman and also the packer of the fair price shop and merely because the money worth has been repaid does not wipe away the misconduct involved.

7. However, in the order now under challenge, the learned Single Judge directed the appellant to reinstate the writ petitioner but without back wages. This order is under challenge.

8. Heard both sides and perused the materials.

9. The nature of allegation levelled against the writ petitioner relates to shortage in the stock of ration materials which are intended for public distribution to poor citizens in this country. Repayment of the value of goods which were swindled can never be an answer to the intent to swindle. At the end of the day, every employee requires certain degree of integrity. Unless the conscience of an employee is clear, employing him might not be ideal.



W.A(MD)No.703 of 2017

WEB COPY

10. This Court is now left with limited option to set aside the different view the one taken by the learned Single Judge in the impugned order. Therefore, this Court hereby confirms the proceedings of the Deputy Commissioner of Labour (Commissioner workmen Compensation), Tirunelveli.

11. Having set aside the order of the learned Single Judge, this Court directs the appellant to disburse all the terminal benefits to the writ petitioner inasmuch as the writ petitioner had rendered his service and in money terms, the appellant also has not lost anything since the co-worker of the writ petitioner had reimbursed the loss suffered *vis-a-vis* shortage in the stock of ration materials.

12. Accordingly, this writ appeal is disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

(N.S.S., J.)

(P.V.M., J.)

03.04.2024

NCC : Yes/No

Index : Yes/No

PM



W.A(MD)No.703 of 2017

To  
WEB COPY

The Deputy Commissioner of Labour,  
(Commissioner workmen Compensation),  
Tirunelveli.



WEB COPY



W.A(MD)No.703 of 2017

**N. SESHASAYEE, J.**  
**and**  
**P.VADAMALAI, J.**

PM

**W.A.(MD) No.703 of 2017**

**03.04.2024**