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W.A.No.1153 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No.1153 of 2025

and

C.M.P.No.8935 of 2025

The Management,
The Dharmapuri District Printers
Service Industrial Co-op Society Ltd.,
38, P.R.Srinivasa Rao Street,
Dharmapuri - 636 701.

... Appellant

Vs.

1.The Presiding Officer,
Labour Court, Salem.

2.A.Rajaram

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 23.01.2024 made in W.P.No.20184 of 2010.

For Appellants : Mr.K.Ashok Kumar

For Respondents : Mr.K.V.Shanmuganathan for R2



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JUDGMENT

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Challenge is to the order of the writ Court made in W.P.No.20184 of 2010 dismissing the writ petition, challenge in which was to the award of the labour Court, Salem made in I.D.No.521 of 2004 directing reinstatement of the employee with full backwages and continuity of service and all attendant benefits.

2. The employee, who was working as a Cashier in the appellant Society was charge sheeted for certain alleged delinquencies viz., passing of payments which was not duly authorized to the tune of Rs.1,19,000/-. A domestic enquiry was conducted and the employee was found guilty, resulting in punishment of dismissal from service being imposed on him.

3. The employee raised an Industrial Dispute. The labour Court found that the dismissal from service was improper. The labour Court found that the employee who was a Cashier has acted as per the instructions of the higher officials viz., President, Secretary, and Accountant of the Society. It was also found that once the payments were authorized by the higher officials of the



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employee, as a Cashier he had no other option than to pass the payments.

Therefore, he alone cannot be held accountable. On the said finding the labour Court directed reinstatement.

4. This order was impugned in the writ petition in W.P.No.20184 of 2010. The writ Court agreed with the findings of the labour Court and the writ Court also recorded the fact that no disciplinary proceedings were launched against the higher officials on the basis of the statement made by the learned counsel for the appellant Society. On the above conclusion, the writ Court dismissed the writ petition upholding the award of the labour Court. Aggrieved the Society has come up with this appeal.

5. We have heard Mr.K.Ashok Kumar, learned counsel appearing for the appellant Society.

6. Mr.K.Ashok Kumar, learned counsel would vehemently contend that the fact that the sum of Rs.1,19,000/- was misappropriated stood proved by the conduct of the employee in paying the said sum to the Society. Therefore, the punishment imposed has to be sustained. The learned counsel would also submit that the statement made by him to the effect that no action has been



taken against the President, Secretary and Accountant is incorrect. He would draw our attention to the effect that money was paid by all the employees together. Therefore, the delinquency stood proved.

7. We are unable to accept the submission of the learned counsel for the appellant. The labour Court has specifically found that all the payments made by the delinquent employee / 2nd respondent herein were admittedly authorized by the President, Secretary and Accountant, who are admittedly superiors to the delinquent employee. Once the superiors have authorized the payments, the delinquent employee as a Cashier had no other option but to comply with the claim. He as a Cashier did not have any discretion to refuse payment. It is not shown even before us as to whether any disciplinary action taken against the President, Secretary and Accountant, who had authorized the payments.

8. May be the amount has been repaid to the Society, but that by itself cannot be a ground to conclude that the respondent is guilty of the delinquency and his dismissal from service is justified. This Court as well as the Hon'ble Supreme Court have repeatedly held that the jurisdiction to interfere with the awards of the labour Court while exercising jurisdiction under Article 226 of



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the Constitution of India is very limited. Unless it is shown that the award is *per se* illegal or it is perverse, the award passed based on the evidence cannot be disturbed by the writ Court, merely because the writ Court reaches a different conclusion on the evidence.

9. In the case on hand, the labour Court has appreciated the evidence and came to a conclusion that the delinquency was not established since all the payments were authorized by the higher officials. The writ Court has also confirmed the said finding. Hence, we see no necessity to interfere with the order of the writ Court. Therefore, the writ appeal fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M.,J.) (G.A.M.,J.)

15.04.2025

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Speaking order

To

1.The Presiding Officer,
Labour Court, Salem.

2.The Management,



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