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W.P.No.1779 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No. 1779 of 2023

S.Poovendhi

...Petitioner

Vs.

The Joint Registrar / Managing Director,
Kancheepuram District Consumers
Co-operative Wholesale Stores Ltd,
G.1113,
185, Prakasam Salai,
Chennai – 600 108.

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus, calling for the records of the III Additional Labour Court, Chennai, relating to the award dated 23.11.2022 in OP.No.1 of 2020, to quash the same and further direct the respondent, in so far as it relates to the denial of relief reinstatement in service with continuity of service and grant the relief of “reinstatement in service with continuity of service and with back wages and all other attendant benefits.”



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For Petitioner : Mr. J.Muthukumaran

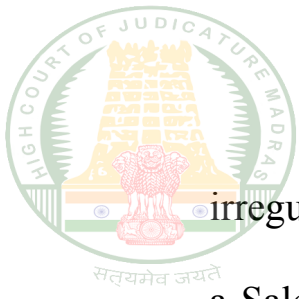
For Respondent : Mr. R.Prem Narayan

ORDER

The workman aggrieved by the award passed in OP.No.1 of 2020 by the III Additional Labour Court, Chennai is the petitioner before this Court. The short facts as set out in the affidavit filed in support of the writ petition is herein below narrated briefly.

2. The petitioner would claim to have been appointed as a Sales Assistant through the Employment Exchange in the respondent society by order dated 25.07.2014 on a consolidated monthly pay of a sum of Rs.3,500/-. He was placed on probation for a year and was posted to work at Fair Price Shop 3 at Arakaputhur. The petitioner would submit that he has been discharging his duties unblemishly.

3. While so, by order dated 03.11.2016 he was suspended by the respondent for a period of 30 days alleging that he had committed



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irregularity in the Public Distribution System while he was working as a Sales Assistant in Anakaputhur Fair Price Shop. The charge memo against him was that he was in an intoxicated state when the Deputy Registrar of Cooperative Societies (FP) had conducted a surprise inspection.

4. The petitioner had submitted his explanation dated 07.03.2017 stating that the charge against him was false and baseless and besides this allegation there was no other allegation against the petitioner. Thereafter, a memo dated 04.07.2017 was issued by the respondent alleging that there is a shortage of stock to the tune of Rs.1.44,398-21 which the petitioner was directed to remit. He had immediately submitted his explanation on 17.07.2017 stating that he was not responsible for the shortage.

5. Though the allegation was based on the report of the Deputy Registrar (FP Shops) and other statements, copies of none of the documents have been furnished to the petitioner. A charge memo was



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issued in this regard on 19.08.2017 and the petitioner had submitted his explanation on 01.09.2007 denying the charge. Not satisfied with the explanation the respondent had appointed an Enquiry Officer.

6. During the enquiry the petitioner had submitted his statement of defense on 21.10.2017 informing the Enquiry Officer that he has not been served with any of the documents which form the basis of the charge against him. However, the Enquiry Officer did not take this into consideration and submitted a report stating that charges have been proved. A copy of the enquiry report was furnished on 20.11.2017 to the petitioner calling upon him to submit his further explanation which explanation was also submitted on 19.12.2017.

7. Thereafter, the respondent had issued a notice dated 25.01.2018 directing the petitioner to remit a sum of Rs.1,44,398/-. Once again the petitioner had sent a reply on 13.03.2018 stating that he was not responsible for the shortage and that he be reinstated first. However, he had stated that the amounts could be recovered from his



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pay every month. Despite this, the petitioner was terminated from service.

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8. Thereafter, the petitioner had raised an Industrial Dispute under Section 2 - A of the Industrial Dispute Act before the Deputy Commissioner of Labour (Conciliation No.1), Sriperumpudur, who had submitted a failure report on 04.10.2018. Therefore, the petitioner had filed OP.No.1 of 2020 before the III Additional Labour Court, Chennai.

9. The learned Judge despite coming to the conclusion that the petitioner was entitled to the relief of reinstatement, however on a totally irrelevant observation had awarded full back wages with all other benefits to the petitioner from the date of termination till date of award. This amount was to be paid within a period of 3 months failing which it was to carry an interest at 6 % per annum till the actual date of realisation.



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10. Aggrieved by the order refusing to reinstate him in service the petitioner is before this Court.

11. Heard the learned counsels on the either side.

12. A perusal of the award would clearly indicate that there are two charges framed against him which are as follows:

(i) For intoxication

(ii) For stock deficiency.

13. As regard the first charge, namely, intoxication MW1 had conceded that they have not referred to the intoxicated state of the petitioner in the suspension order. That apart, the allegation of the petitioner being in an intoxicated state has not been proved either by medical examination or by examination of any witness. MW1 has also admitted that the petitioner had not been subject to medical examination. Therefore, the first charge has been held to have been not proved.



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14. Coming to the second charge, namely, causing stock deficiency, the Labour Court on considering the evidence has held that immediately after the inspection on 01.11.2016 in the first charge memo dated 22.02.2017 there is no reference to this and it is only thereafter as an after thought that the second charge memo issued on 19.08.2017, nearly an year after the inspection. If really there was stock deficiency at the time of inspection the Deputy Registrar would have first taken note of this deficiency and the memo would not be issued only on the ground of intoxication.

15. Another factor that has to be taken note of is that the person who had submitted a complaint was the Deputy Registrar and the complaint received from him has not been marked before the Court. Further the petitioner has not been given any of the documents based upon which the respondent has come to the conclusion that there is a stock deficiency. The details of the calculation has also not been provided. The petitioner was thereafter asked to defend the charge



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without knowing the basis. This is also a flagrant violation of the principles of natural justice.

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16. Therefore, the Labour Court having rightly come to the conclusion that the respondent has not established the two charges against the petitioner ought to have reinstated him into service with all back wages and benefits. The Labour Court's observation that the order denying him reinstatement is only on the ground that on the framing of charges the respondent had lost confidence in the petitioner, is a plea not been taken by the respondent themselves and the order of the Labour Court smacks of special pleadings in favour of the respondents.

17. Therefore, taking note of the fact that the charges have not been proved by the respondent and the Labour Court's observation that the petitioner was entitled to reinstatement, the impugned order cannot be sustained and accordingly, the Writ Petition is allowed and the order of the III Additional Labour Court, Chennai, is set aside and the



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respondent is directed to reinstate the petitioner with continuity of service and full back wages and all other attendant benefits. No costs.

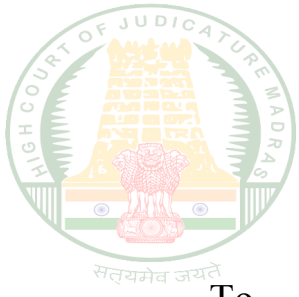
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Index : Yes/No

Internet : Yes/No

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To
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Chennai.

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