



W.P.Nos.19730 & 19777 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.19730 & 19777 of 2011

and

MP.Nos.2 of 2011 (2 Nos.) and 1 of 2014 (2 Nos.) & 2 of 2014

W.P.No.19730 of 2011:

Deputy Registrar of Cooperative Societies/Special Officer,
The Pollachi Consumers Co-operative Whole Sale Stores Ltd.,
No.K.910, Palladam Road,
Mahalingapuram P.O.,
Pollachi – 642 002.

...Petitioner in both Writ petitions

Vs.

1. P.Alagirisamy ...1st Respondent in W.P.No.19730 of 2011
2. V.Ashok Babu ...1st Respondent in W.P.No.19777 of 2011
3. The Presiding Officer,
Labour Court,
Coimbatore. ...2nd Respondent in both Writ petitions

Prayer in W.P.No.19730 of 2011: Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the entire records of the 2nd respondent in I.D.No.162 of 2005 dated 18.05.2009, quash the same.



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Prayer in W.P.No.19777 of 2011: Petition filed Under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari to call for the entire records of the 2nd respondent in I.D.No.43 of 2004 dated 18.05.2009, quash the same.

In Both W.P's.:

For Petitioner : Mr.G.B.Saravanabhavan

For Respondents : Mr.V.Ajoy Khose, for R1
: R2 – Labour Court

COMMON ORDER

Since the issue involved in both the Writ petitions are similar in nature, they are disposed of by way of this common order.

2. These Writ petitions have been filed seeking quashment of the orders of the 2nd respondent both dated 18.05.2009 made in I.D.Nos.162 of 2005 & 43 of 2004 respectively.

3. The short facts leading to filing of these Writ petitions are as follows:

3.1. In respect of the 1st respondent in W.P.No.19730 of 2011 is concerned, he joined the services of the petitioner organisation as Weighing Assistant on 24.09.1994. On 31.07.1997, it was found that



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there was a deficit of Rs.17,753/- during the 1st respondent's tenure.

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Thereafter, the 1st respondent has gone on unauthorised leave from 04.08.1997 to 06.08.1997; and from 07.08.1997 till his date of dismissal. Letters sent by the petitioner to the address given by the 1st respondent were returned with an endorsement 'addressee left India'. By letter dated 04.10.2000, the petitioner informed the 1st respondent that since he was on unauthorised leave for more than 355 days, he was deemed to have abandoned/resigned from service, which was also received by the 1st respondent on 02.11.2000. Thereafter, the petitioner issued an advertisement in 'Thina Boomi' on 08.07.2003 that if the amount of Rs.17,753/- was not repaid with due interest thereon, recovery proceedings would be initiated. Subsequently, the 1st respondent was permanently terminated from service and the same was also published in 'Thina Boomi' daily on 28.05.2003. Challenging the same, the 1st respondent raised a dispute in I.D.No.162 of 2005 and the Labour Court, Coimbatore, by order dated 18.05.2009 ordered reinstatement of the 1st respondent without backwages, but with continuity of service and while taking into account the continuity of service, the yearly increment in wages should also be considered. Challenging the same, the petitioner society has come up with W.P.No.19730 of 2011.



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3.2. Insofar as the 1st respondent in W.P.No.19777 of 2011 is

concerned, he joined the services of the petitioner organisation as Salesman in the year 1985. On 22.02.2000, he was transferred to Kottur No.1 Fair price shop. When the 1st respondent reported to duty on 30.08.2000, he was arrested by the Inspector of Police on the charge that he has unauthorisedly sent 11 quintal of rice meant for public distribution in a lorry and he was later released on bail. As the loss was computed at Rs.66,867.09/-, the 1st respondent was temporarily suspended from duty till 22.04.2001. Subsequently, the 1st respondent was acquitted by the District Collector, vide order dated 22.04.2001. The petitioner sent a registered post regarding the enquiry to be conducted by the management and as the said letters have returned, a publication was issued on 24.06.2003 in “Thina Boomi” and subsequently, on 04.07.2003, an order of dismissal was published in the office notice board of the petitioner, as the earlier service has been returned without being served and also published the dismissal order in “Thina Boomi” on 08.07.2003. Pursuant to the same, the 1st respondent initiated conciliation proceedings and as the same ended in failure, the 1st respondent raised a dispute in I.D.No.43 of 2004 and the 2nd respondent, vide its order dated 18.05.2009, ordered for reinstatement of the 1st respondent without backwages with continuity



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of service. Challenging the same, the petitioner has come up with

WEB COPY W.P.No.19777 of 2011.

4. Learned counsel for the petitioner submitted that the principal contention taken by the petitioner in both the writ petitions is that the Labour Court was in error in showing misplaced sympathy to both the workmen/the respective 1st respondent and ordering reinstatement. The 1st respondent in W.P.No.19730 of 2011 had been on unauthorized leave for about 355 days and he was also alleged to have misappropriated a sum of Rs.17,753/-. Likewise the 1st respondent in W.P.No.19777 of 2011 was charged with the grievous offence of smuggling 11 quintal of rice meant for public distribution to the neighboring state in Lorry and the loss was computed at Rs.66,867/-. Though both the workmen were negligent in their duty and they have also accepted their misappropriation, however, the Labour Court has strangely set aside the respective orders of dismissal and ordered for reinstatement, which is not sustainable. Therefore, the learned Counsel for the petitioner prayed for setting aside the award of the Labour Court.



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5. *Per contra*, the learned counsel appearing on behalf of the respective 1st respondent/workmen justified the awards passed by the Labor Court and submitted that the labour court was pleased to award reinstatement, taking into consideration of the fact that the principles of natural justice was not followed by the petitioner society at every stage of the enquiry, leading up to the stage of termination. Learned counsel for the 1st respondent/workmen, therefore, prayed that the awards may be sustained and the Writ petitions may be dismissed.

6. Heard learned counsel on either side and perused the materials available on record.

7. Since the bone of contention between the parties is the termination order made through advertisement in “Thina Boomi” and the labour court had also hovered around the said argument, both the Writ petitions can be disposed by way of this common order.

8. As regards W.P.No.19730 of 2011, the 1st respondent has taken the contention that he has duly sent leave letters to the petitioner society. The 1st respondent has stated that he was suffering from certain skin



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disease which required treatment for a long period. Before the Labour Court, the petitioner has accepted that the leave letter sent by the 1st respondent was received by them on 08.09.1997, but the petitioner has not informed the 1st respondent whether it has accepted or rejected the leave sought for.

9. This Court is of the view that the petitioner ought to have sent a reply to the address mentioned in the leave letter as to whether they are accepting or rejecting the leave sought for. Since no reply was given, the 1st respondent presumed that his leave has been sanctioned. While so, the petitioner has given an advertisement in the newspaper, terminating the services of the 1st respondent which is against the principles of natural justice. It is also to be noted that the 1st respondent has repaid the amount of Rs.14,495/- along with an objection letter.

10. As regards W.P.No.19777 of 2011, the 1st respondent therein was acquitted by the District Collector vide order dated 22.04.2001. Thereafter, the 1st respondent has sent letters to the petitioner seeking reinstatement. However, there was no response from the petitioner. It is the case of the petitioner that they have in-turn sent letters to the 1st



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respondent directing him to return the loss. However, it is the case of the petitioner that the said letters were returned. But the letters said to have been sent to the 1st respondent and that were returned have not been produced before the Labour Court. Though the petitioner has taken a contention that they have made an advertisement in "Thina Boomi" newsdaily demanding the workman to return the amount, copy of the said advertisement has not been produced. Likewise, though the petitioner has taken a contention that the 1st respondent has accepted his guilt, no document was produced to that effect either before the District Collector or in the domestic inquiry. Therefore, the petitioner has not proved the misconduct of the workman.

11. The petitioner has taken a strange contention that they collected the address of the 1st respondent from his wife. Allegedly, the petitioner has sent communication to the said address provided by the 1st respondent's wife, directing the 1st respondent to appear for enquiry. According to the petitioner, the said address given by the wife is incorrect. It is not known whether the petitioner has contacted the wife over the phone or met her in person at a particular place and got address. If the petitioner had met the wife at a particular place or house and got



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the address, they could have very well made enquiry with the neighbours and ascertained whether the 1st respondent was indeed residing in the said place.

12. Therefore, this Court has no hesitation to hold that the principles of natural justice was not followed in these cases and that the respective 1st respondents were terminated from service without following the due process of law. Hence, on that ground, these writ petitions are liable to be dismissed.

13. At this juncture, it is brought to the notice of the Court that the respective 1st respondent/workmen in both the writ petitions have reached the age of superannuation and they are in their mid of 60s. Considering the said fact, the petitioner society is directed to pay a lump sum amount to the respective 1st respondent.

14. Accordingly, the 1st respondent/workman in W.P.No.19730 of 2011 would be entitled to a lump sum compensation of Rs.50,000/- and the 1st respondent/workman in W.P.No.19777 of 2011 would be entitled to a lump sum compensation of Rs.75,000/-. The petitioner is directed to



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pay the above said compensation amount fixed by this Court in favour of the respective 1st respondent/workmen within a period of four weeks from the date of receipt of a copy of this order.

15. Accordingly, these Writ petitions stand dismissed. No costs.

Consequently, the connected Miscellaneous petitions are closed.

03.02.2025

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NCC : Yes/No
Index : Yes / No
Speaking Order : Yes / No

To

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Coimbatore.
2. The Deputy Registrar of Cooperative Societies/Special Officer,
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