



W.P.No.17814 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.17814 of 2015

The Management,
K 879, Udumalaipettai Town Co-operative Stores Limited,
59, Pasupathi Street,
Udumalaipettai,
Thiruppur District. ... Petitioner

Vs.

1.The Appellate Authority
under the Tamil Nadu Shops and Establishments Act/
Deputy Commissioner of Labour,
Balasundaram Road,
Coimbatore – 18.

2.T.Damodharan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to TNS & E Act Case No.2 of 2013 on the file of the 1st respondent herein and quash the order dated 30.05.2014 passed therein setting aside the order of dismissal dated 22.03.2013 passed against the 2nd respondent by the management of writ petitioner society.

For Petitioner : Mr.R.D.Ashok Kumar
for M/s.K.V.Shanmuganathan



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For Respondents : Mr.K.Surendran
Additional Government Pleader [R1]
Mr.C.K.Chandrasekhar [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorari, to call for the records pertaining to TNS & E Act Case No.2 of 2013 on the file of the 1st respondent herein and quash the order dated 30.05.2014 passed therein setting aside the order of dismissal dated 22.03.2013 passed against the 2nd respondent by the management of writ petitioner society.

2. The case of the petitioner is that, it is a co-operative stores registered under the provisions of the Tamil Nadu Co-operative Societies Act. The 2nd respondent was employed as a “sales man” in one of the fair price shops run by the petitioner. A surprise inspection was made in the said shop by the Co-operative Sub-Registrar/PDS, Madathukulam on 27.09.2012 and the 2nd respondent was also present when the inspection was conducted and the inspection revealed stock deficit to the tune of Rs.9,348.60/- and irregularity in the supply of essential commodities through bogus bills to the tune of Rs.332/-. Based on the report of the



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said officer, the 2nd respondent was placed under suspension.

Subsequently, a charge memo dated 25.10.2012 was issued to the 2nd respondent for the alleged misconduct of causing stock deficit and effecting sale of the essential commodities through bogus bills. After conducting proper enquiry, the 2nd respondent was dismissed from service vide order dated 22.03.2013. Aggrieved by the same, the 2nd respondent had preferred an appeal before the 1st respondent u/s 41(2) of the Tamil Nadu Shops and Establishments Act, 1947 (in short 'the Act') in TNSEC No.2 of 2013 and the 1st respondent allowed the same vide impugned order dated 30.05.2014. Challenging the same, the petitioner has filed the present writ petition before this Court.

3. Learned counsel appearing for the petitioner submitted that, the 1st respondent framed the preliminary issue of whether the enquiry was conducted in a fair and proper manner and held against the petitioner. Even then, the 1st respondent ought to have given the petitioner an opportunity to adduce evidence before the 1st respondent to prove that the enquiry was conducted in a fair and proper manner. However, such an opportunity was not given to the petitioner by the 1st respondent. Hence, on instructions, he submitted that this Court may set aside the impugned



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order and remand the matter to the 1st respondent for fresh consideration.

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Further, this Court may permit the petitioner to adduce evidence before the 1st respondent and issue a direction to the 1st respondent to dispose the same within a time frame that may be fixed by this Court.

4. Learned counsel appearing for the 2nd respondent submitted that, the petitioner did not take any plea before the 1st respondent with regard to the adducing of evidence in the event of a preliminary issue, which was held against the petitioner. Further, he submitted that though the order of termination was passed by the petitioner in the year 2013 and the impugned order was passed in the year 2014, even today, 17B wages have not been paid to the 2nd respondent and other benefits have not granted in favour of the 2nd respondent. Consequently, the 2nd respondent is suffering without any monetary benefits. Hence, he submitted that, if this Court is inclined to remand the matter, this Court may fix an outer time limit to dispose of the appeal by deciding the issue with regard to quantum of compensation and other benefits, since the 2nd respondent has already reached the age of superannuation, and there is no possibility of reinstatement of the 2nd respondent. Accordingly, he prays for appropriate orders.



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WEB COPY 5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. Admittedly, the 2nd respondent was employed as a “sales man” in one of the fair price shops run by the petitioner. For the alleged misconduct, he was dismissed from service. Aggrieved by the same, the 2nd respondent had preferred an appeal before the 1st respondent and the 1st respondent allowed the same vide impugned order, setting aside the order of dismissal passed by the petitioner against the 2nd respondent, assailing which, the petitioner has filed the present writ petition.

7. The petitioner claimed that an opportunity was not given to the petitioner to adduce evidence in order to prove that the enquiry was conducted in a fair and proper manner, which is nothing but violation of principles of natural justice. In such a scenario, this Court, in exercise of its inherent jurisdiction under Article 226 of the Constitution of India has to interfere with the impugned order.



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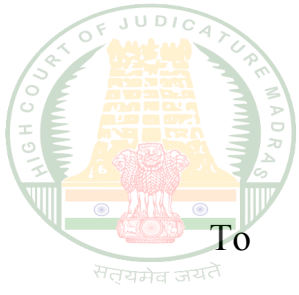
8. In fine, the impugned order passed by the 1st respondent dated 30.05.2014 in TNS & E Act Case No.2 of 2013 is set aside and the matter is remanded to the 1st respondent for fresh consideration. The 1st respondent shall allow the petitioner to adduce evidence and the 1st respondent shall consider the same and pass appropriate orders, by considering the fact that the 2nd respondent has already reached the age of superannuation and there is no possibility of reinstatement of the 2nd respondent, within a period of three (3) months from the date of receipt of a copy of this order, by affording an opportunity of hearing to the petitioner and aggrieved persons, if any.

9. Registry is directed to return all the original records to the 1st respondent, enabling the 1st respondent to pass appropriate orders.

10. With the above directions, this Writ Petition is allowed. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

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under the Tamil Nadu Shops and Establishments Act/
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M.DHANDAPANI, J.

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