



W.P.No.23602 of 2010

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23602 of 2010

P.Nallasamy

... Petitioner

Vs

1.The Assistant Director of Handlooms & Textiles,
Erode,
Erode District.

2.The Managing Director,
E.H.55, Erode Co-operative Intensive
Handloom Development Project Ltd,
Handloom Development Project Ltd,
Erode,
Erode District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the order of the Principal District Judge and Special Tribunal for Co-operative Cases at Erode in CMA 11 of 2008 dated 07.10.2009 confirming the order passed by the 1st respondent in ARC No.32/1997-1998, dated 01.11.2007 and quash the same.



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For Petitioner : Mr.S.Silambanan
Senior Counsel for
M/s.Profexs Associates

For Respondents : Mr.S.Ravichandran
Additional Government Pleader
for R1
No Appearance
for R2

ORDER

The Petitioner had already attained the age of superannuation at the time when the Writ Petition was filed.

2.This Writ Petition is directed against the Judgment and Decree dated 07.10.2009 passed by the Principal District Judge, Erode in CMA.No.11 of 2008. In the said Civil Miscellaneous Appeal, the Petitioner had challenged the Award dated 01.11.2007 passed by the 1st Respondent in ARC.No.32/1997-1998.

3.The facts on record reveal that the Petitioner had joined with the 2nd Respondent on 26.09.1994 and was responsible for the safety of the goods in the Godown and therefore the Petitioner was designated as



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Godown-in-Charge. It appears that pursuant to the audit conducted on the stocks at the 2nd Respondent society, it was found that the stocks were in deficit and therefore alleged loss was sustained by the 2nd Respondent/Society.

4.It is in this background, the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act was initiated against the Petitioner which culminated in the impugned Award dated 01.11.2007 in ARC.No.32/1997-1998 of the 1st Respondent. The Award dated 01.11.2007 was an ex-parte award, as the proceedings was kept pending for a long period of time after Notice was issued to the Petitioner in the year 1998.

5.Under these circumstances, the aforesaid Award dated 01.11.2007 was challenged by the Petitioner before the Principal District Judge, Erode in CMA.No.11 of 2008.

6.The learned counsel for the Petitioner would submit that the Petitioner would be satisfied if the case is remitted back to the



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Respondent to pass a fresh order as an ex-parte award was passed by the 1st Respondent in ARC.No.32/1997-1998 vide impugned order dated 01.11.2007.

7.The learned counsel for the Petitioner further submits that fresh opportunity of hearing to be given to the Petitioner to explain the case in support of the Petitioner.

8.In the Affidavit filed in support of the present Writ Petition, the Petitioner has also stated that parallel proceedings were also initiated against the Petitioner before the Criminal Court, which resulted in acquittal and therefore on this count also, there is a good case for the Petitioner to prove that the Petitioner is not guilty and for dropping the Charge Memo dated 16.11.1996, issued against the Petitioner by the 2nd Respondent.

9.The learned counsel for the Respondent on the other hand would submit that the Impugned Judgment and Decree dated 07.10.2009 in CMA.No.11 of 2008 passed by the Principal District Judge, Erode does



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not suffer any infirmity and therefore submits that this Writ Petition is liable to be dismissed.

10.I have considered the arguments advanced by the learned counsel for the Petitioner and the learned Additional Government Pleader for the 1st Respondent.

11.The delay in adjudication of the Charge Memo dated 16.11.1996 resulted in an adverse impugned Award dated 01.11.2007 in ARC.No.32/1997-1998. The Petitioner had not participated in the aforesaid disciplinary proceedings which culminated in the impugned Award dated 01.11.2007 and the proceedings were completed only at the flag end of his career, which resulted in recovery of Rs.11,43,454/- from the Petitioner. The Petitioner thereafter preferred an Appeal before the Principal District Judge, Erode in C.M.A.No.11 of 2008 against the impugned Award dated 01.11.2007 which was confirmed vide the impugned Judgment and Decree dated 07.10.2009.

12. The Respondent while passing the impugned Judgment and



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Decree dated 07.10.2009 failed to note that there has been a manifest violation of Principles of Natural Justice. The Petitioner deserves a chance to explain his case, particularly in the light of his acquittal in the collateral proceedings initiated against the Petitioner.

13. Under these circumstances, the impugned Judgment and Decree dated 07.10.2009 is set aside and the case is remitted back to the 1st Respondent to pass a fresh order within a period of six months from the date of receipt of a copy of this order. The Petitioner shall be given a full opportunity to make his submission as also for cross examination of any witness who may have been produced in the enquiry before the 1st Respondent. The Petitioner is however directed to cooperate with the 1st Respondent, failing which, the 1st Respondent is at the liberty to pass a fresh order based on the available records.

14. This Writ Petition stands disposed of. No costs.

03.04.2025

Neutral Citation : Yes/No
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To

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C.SARAVANAN, J.

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