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W.P.No.16357 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16357 of 2016

The Management,
The Tamil Nadu Co-operative Milk Producer Federation Ltd.,
Aavin Illam, Madhavaram, Chennai – 600 051. ... Petitioner

Vs.

1.J.Padmanabhan

2.The Presiding Officer,
The Hon'ble II Additional Labour Court,
High Court Campus, Chennai – 600 104. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the learned II Additional Labour Court at Chennai in I.D.No.298 of 2008 dated 29.04.2015 and quash the same.

For Petitioner : Mr.M.Madhu Balan
for M/s.Akila Rajendran

For Respondents : No appearance [R1]
Labour Court [R2]

ORDER

Page No.1 of 8



W.P.No.16357 of 2016

WEB COPY

Aggrieved by the award dated 29.04.2015 passed by the learned II Additional Labour Court at Chennai in I.D.No.298 of 2008, the present writ petition has been filed.

2. The case of the petitioner is that they are procuring milk from various District Co-operative Milk Producers Union and distributing them in the City of Chennai. It is registered under the Tamil Nadu Co-operative Societies Act. The 1st respondent was originally appointed as Factory Assistant in the year 1985 and subsequently, he was appointed as Senior Factory Assistant in the year 1989. Whiles, when he was in duty on 06.02.1997 at 06.10 a.m., a surprise inspection was conducted by inspection officer and sample milk was taken from the unit and sent for analysis and it was found from the analysis report that the milk was adulterated. Hence, he was placed under suspension from 14.02.1997 and after conducting disciplinary proceedings, he was dismissed from service on 24.08.2005, against which, he preferred an appeal before the appellate authority and the same was rejected. Thereafter, he raised a dispute u/s 2(A)(2) of the Industrial Disputes Act, 1947 (in short 'the ID Act') before the 2nd respondent in I.D.No.298 of 2008 and labour court, by its order

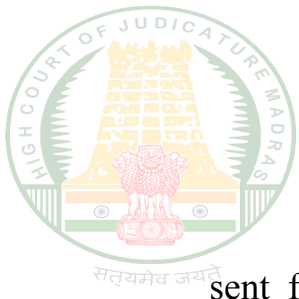


W.P.No.16357 of 2016

WEB COPY

dated 29.04.2015, directed the petitioner to reinstate the 1st respondent with continuity of service and to pay back wages and all other attendant monetary benefits from the date of dismissal till the date of reinstatement. Challenging the same, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner submitted that as per the petition filed by the 1st respondent, at the relevant time, he was working as a Senior Distribution Assistant in the automated vending machine unit No.158. The petitioner management used to supply 40 litres of milk to that unit, 20 litres of milk to be distributed to the cardholders and the remaining 20 litres of milk to be sold to the general public for cash. He claimed that the petitioner used to supply milk to the automated vending machine daily at 9.00 p.m. In the absence of air-conditioning, the milk could be preserved only till 6 a.m. on the next day. So the 1st respondent had to sell the entire milk before 6 a.m. in the morning. On 06.02.2007 also he completed the sale before 6 a.m. and left the shop with the sale proceeds. When he left the shop, he instructed his Assistant Mohan to take half a litre of milk which was remaining (unsold) in a bucket to his house. Thereafter, that milk was seized by the petitioner management and



W.P.No.16357 of 2016

WEB COPY

sent for analysis after a period of six days from the date of seizure, thereby such a report of alleged adulteration was given by the specialist to the petitioner and on that basis, the petitioner management has passed the order of dismissal. However, the misconduct of adulteration of milk committed by the 1st respondent is proved before the labour court. When a person is incharge of the automated vending machine, if air-conditioning is not working, he has to inform immediately after coming to know about the fault. However, he has informed only at the time of enquiry. Such a plea raised by the 1st respondent is not sustainable. When adulteration is proved and the person, who is incharge of the automated vending machine, has to supply the unadulterated milk to the general public. However in the present case, the alteration was proved, even then, the order of dismissal passed by the petitioner is set aside by the labour court, which is wholly unsustainable. Accordingly, he prays for allowing the writ petition.

4. Though name of the learned counsel for the 1st respondent has been printed in the cause list, none appeared on behalf of the 1st respondent. Considering the pendency of this writ petition, this Court is



W.P.No.16357 of 2016

WEB COPY

inclined to dispose of this writ petition based on the materials available on record.

5. Admittedly, the 1st respondent entered the service of the petitioner management in the year 1985 and in the year 2005, he was dismissed from service on the ground that he had sold adulterated milk to the customers of the petitioner management. However, the petitioner has failed to prove the said allegation made against the 1st respondent thereby, the labour court has set aside the order of dismissal passed by the petitioner, which is *per se* sustainable and the same does not require any interference.

6. It is brought to the notice of this Court that during the pendency of this writ petition, the 1st respondent has reached the age of superannuation in the year 2022 itself and is no longer in service. Therefore, no useful purpose would be served if the order of reinstatement passed by the labour court is confirmed. Hence, in order to strike balance in between the parties and considering the rendered by the 1st respondent, this Court is inclined to fix a reasonable compensation in



W.P.No.16357 of 2016

his favour.
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7. Accordingly, this Writ Petition is disposed of, directing the petitioner to pay a sum of Rs.4,00,000/- (Rupees Four Lakhs only) as lumpsum compensation to the 1st respondent, in lieu of reinstatement, in full quit, within a period of four (4) weeks from the date of receipt of a copy of this order. The petitioner is also directed to pay the terminal benefits, if any, in accordance with the terms of service remaining unpaid to the 1st respondent. No costs.

28.04.2025
(2/2)

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



W.P.No.16357 of 2016

WEB COPY To

The Presiding Officer,
II Additional Labour Court,
High Court Campus,
Chennai – 600 104.



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W.P.No.16357 of 2016

M.DHANDAPANI, J.

sp

W.P.No.16357 of 2016

28.04.2025
(2/2)