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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.02.2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.8371 of 2011

The Management,

VL. SPL.127 Ranipet Primary Agricultural

Cooperative Bank,

Karai Post, Ranipet.

... Petitioner

Vs.

1. The Presiding Officer,

Labour Court,

Vellore District.

2. N.Chandran

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari calling for the records in ID. No.151/1996 dated 02.08.2010 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.P.S.Sivashanmugasundaram

For Respondents : Mr.R.Rajaram R2

R1 – Labour Court

ORDER

Challenging the order passed by the first respondent in ID. No.151 of 1996 dated 02.08.2010 whereby the first respondent had directed the

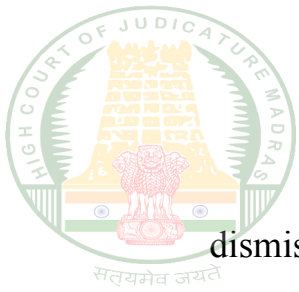


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petitioner to reinstate the second respondent into service with continuity of service and other benefits; however, restricting the back wages to 50%.

2. The facts of the case are that the second respondent was working as Assistant from 1984 under the petitioner cooperative Bank. While so, the petitioner was charge sheeted thrice for various misconducts. The second respondent was suspended pending enquiry. The explanation offered by the second respondent was not satisfactory and therefore, the petitioner appointed an enquiry officer. The second respondent did not participate in the domestic enquiry and remained ex-parte. Therefore, the enquiry officer drawn a proven minute. Accepting the enquiry report, the petitioner dismissed the second respondent w.e.f. 22.12.1994, for which, the second respondent raised an industrial dispute and the same was taken on filed in ID.No.195 of 1996. The petitioner herein filed counter statement alleging that the second respondent did not participate in the domestic enquiry and remained ex-parte. Having missed in the opportunity given to him, the second respondent cannot turn around and contended that the order of dismissal was illegal.

3. Initially, the first respondent framed the issues and both sides let in evidence. On the basis of the available materials, the first respondent



dismissed the claim petition filed by the second respondent on 20.10.2010.

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challenging the same, the second respondent has filed a writ petition before this Court which was taken on file in W.P.No.779/2001. This Court disposed of the same holding that the Labour Court failed frame a preliminary issued regarding a validity of the enquiry and accordingly, set aside the award passed by the Labour court and the matter was remitted for fresh disposal.

4. This Court has also directed the first respondent to assess all evidence recorded on both sides and decide the matter on merits. Thereafter, the Labour Court on an analysis of the materials available passed an impugned order as mentioned above. Challenging the same, the present writ petition has been filed.

5. The learned counsel for the petitioner vehemently contended that having remained exparte before the domestic enquiry, which is not open to the second respondent and now contended that the domestic enquiry is not conducted in a fair manner.

6. The learned counsel further submitted that the charges levelled against the second respondent are grave in nature and there are over-

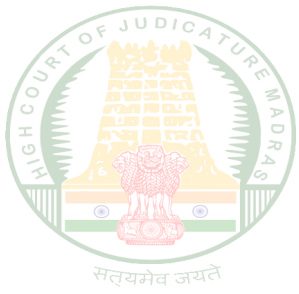


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whelming evidence available against the second respondent and considering the all the materials available before it, the petitioner had dismissed the second respondent. The learned counsel therefore, urged this Court to reverse the findings of the Labour court and allow this writ petition.

7. The learned counsel for the second respondent contended that even though his client remained exparte and there are umpteen number of judgments on his point viz., enquiry officer should consider all the materials available before him and take a decision on merits and in accordance with law. The learned counsel submitted that a perusal of the impugned order would show that the records speak for themselves and the charges framed against the second respondent remained unproved. The Labour Court was considered the issue in all fairness and arrived at a finding that the petitioner bank has failed to prove the misconducts alleged against the second respondent and directed reinstatement with continuity of service. The learned counsel therefore, submitted that the said order does not need any interference by this Court.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.



WEB COPY 9. This Court had perused the impugned. It is no doubt that the second respondent remained *exparte* before the enquiry officer. However, is mere absence to appear before the enquiry officer cannot be held against him to hold that his misconducts are proved.

10. The first charge as against the second respondent was that there was a shortage of 20 Kgs of Ammonium Phosphate. The second respondent had given his explanation and the Deputy Registrar of Cooperative Societies accepting his explanation and dropped the charges. The second respondent was relieved from the fertilizer sale counter on 04.08.1992. In his place, one Mahoharan was appointed. After a gap of 50 days, the Bank alleged that there was a shortage of materials. The Assistant Director, who gave a report of shortage was not examined. Likewise, his report was also not marked. The said Manokaran, who is the competent person to speak about shortage of fertilizer, was also not examined. Non examination of Manoharan is definitely fatal to the charge made against the second respondent. Therefore, the first charge goes.

11. The second charge against the second respondent was that he issued

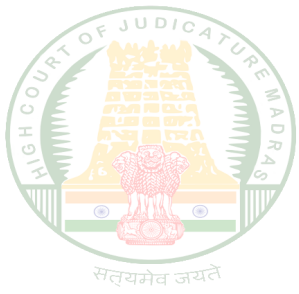


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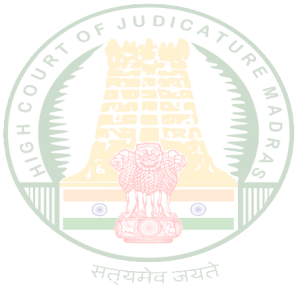
no due certificate to one Mahoharan @ Pichandi. The issuance of no due certificate was subsequent to the letter received from the Indian Overseas Bank with an enquiry whether the said Manoharan @ Pichandi owns any money to the petitioner Bank.

12. It is the case of the second respondent that not only to the petitioner bank, but also 5 other different banks, the similar letter was sent. However, the said letter sent by the Indian Overseas Bank has not been produced either before the Labour Court or before the enquiry officer. The genuineness of the said letter is a question mark. Therefore, the said charge also remains not proved.

13. The second respondent was issued with another charge memo dated 30.08.1993 alleging that he had erased his initials at Page No.199 of the fertilizer sales register for the period from 03.02.1990 to 04.08.1993. The counsel for the second respondent submitted that his client is not going to benefit in any way by erasing his signature because the sales done by him for the relevant period are available in the said register. Therefore, the said explanation is acceptable. Therefore, the said misconduct alleged against the second respondent is persuaded.



WEB COPY 14. The third charge memo dated 30.08.1993 was issued to the second respondent on the ground that he admitted two persons by name Munusamy and Sekar as members of the society before getting permission. The second respondent has taken a stand that he was only filling up the relevant history and only the Secretary has powers to admit new members. It is also seen that the new members should file their form-16 income tax returns. The said document is valid document to prove that a person's residence and also income. Though the petitioner contented that a statement of Manokaran and Sekar was recorded and the same was not filed before the Labour Court. The second respondent was also alleged to have accepted the chitta and adangal given by Manoharan and Sekar without any verification. The second respondent has taken a stand that only the Secretary has powers to verify such documents to ascertain their veracity. The second respondent being an Assistant has no powers to certify whether the chitta and adangal submitted by the new members are genuine or not. The said explanation is acceptable. The petitioner has alleged that the person Sekar is only an imaginary person and the villagers have deposed in this regard. However, not even a single statement of the villagers that no person in the name Sekar existed was produced before the Labour Court.



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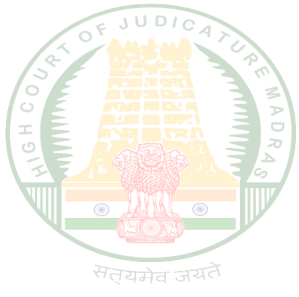
15. The Labour Court has held that mere filing of documents does not carry any credential value unless they are corroborated by examination of witnesses. This Court is in complete agreement that the finding arrived at by the Labour Court . The Labour Court has awarded only 50% of back wages to the second respondent because of the non cooperation during the domestic enquiry. The said finding also does not require interference.

16. In the result, the writ petition fails and the same is dismissed. No costs.

12.02.2025

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To
The Presiding Officer,
Labour Court,
Vellore District.



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M.DHANDAPANI,J.

Rli

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