



W.P. No.33356 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.33356 of 2012
and W.M.P. No.1 of 2012

The Senior Superintendent of Police,
Department of Posts,
O/o. Superintendent of Post Offices,
Kanniyakumari Division, Nagercoil - 629 001. .. Petitioner

vs.

1. The Presiding Officer,
Central Government Industrial Tribunal-
cum-Labour Court,
Chennai.

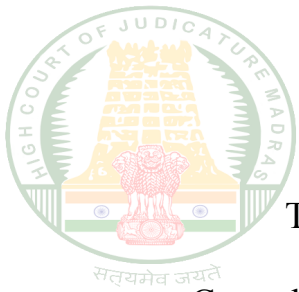
2. C. Swamisundaram S/o. N. Chellaadivoo .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for records pertaining to the order dated 16.08.2011 in I.D. No.24/2010 on the file of the 1st respondent and quash the same.

For Petitioner : Dr. P.G. Santhosh Kumar,
Senior Panel Counsel

For Respondents : R1 - Court.
M/s. S.S. Jothivani [for R2]

ORDER



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This Writ petition has been filed challenging the order passed by the Central Government Industrial Tribunal-cum-Labour Court, Chennai in I.D. No.24/2010 dated 16.08.2011, wherein the 2nd respondent herein had raised an industrial dispute challenging the punishment awarded in the disciplinary proceedings and the said punishment was upheld by the Labour Court, however, directed the department to pay a sum of Rs.50,000/- to the 2nd respondent/workman to mitigate his financial stringency to meet the cost of litigation expenses. Challenging the said award, the present Writ petition is filed by the department.

2. The short facts necessary to dispose of the Writ petition are as follows:-

The 2nd respondent had joined duty on 23.07.1975 as Extra-Departmental Branch Post Master at Pallam Branch Post Office vide a letter dated 27.10.1975. Whils so, in the year 1985, the Assistant Superintendent of Posts namely S. Sam Daniel had directed the 2nd respondent to go on leave since one A. Somasundaram has to be accommodated. The 2nd respondent also obeyed his superior officer's order. Thereafter, in the month of September 1985, the said A. Somasundaram refused to hand over the charge



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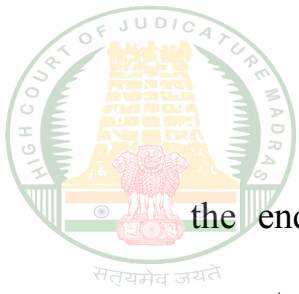
to the 2nd respondent when he rejoined duty. On 14.11.1985, the Assistant Superintendent of Police had ordered "put off duty" on the 2nd respondent to accommodate the said A. Somasundaram, who was provisionally appointed on 18.11.1985. Thereafter, the 2nd respondent was issued a Charge Memo stating that he had not credited the R.D. account and criminal cases were also filed against the 2nd respondent. He was acquitted in some cases and convicted in some cases. Thereafter, the enquiry officer rendered findings that the charges were proved and the 2nd respondent was dismissed from service on 30.09.1986. Thereafter, he filed an appeal as against the said dismissal order and the same was also rejected by the Authority on 22.09.1997. Again the 2nd respondent filed a Review Application and the same was also rejected on 30.03.1998. Thereafter, he raised an industrial dispute. The Labour Court, after hearing both sides and perusing the materials, rendered findings and has upheld the enquiry proceedings and the punishment awarded to the 2nd respondent. However, ordered to pay a cost of Rs.50,000/- to the 2nd respondent towards litigation expenses. Aggrieved by the said award of the Labour Court, the present Writ petition is filed by the department.

3. The learned counsel appearing for the petitioner would submit that



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the 2nd respondent was working as Extra-Departmental Branch Post Master at Pallam Branch Post Office. Thereafter, in the year 1985, during his tenure, on 14.11.1985, the Assistant Superintendent of Post Offices, Nagercoil East Sub Division made a surprise visit to Pallam Branch Post Office. At that time, he verified the cash and stamp balances of the above said Post Office and found that a sum of Rs.1803.65 was short and the shortage of cash was charged under 'unclassified payment' and the 2nd respondent had credited Rs.1803.65 under 'unclassified' receipt into Post Office account to adjust the above shortage on the day itself. Therefore, he was placed under off duty with effect from 14.11.1985 and after verification of records, they found that the 2nd respondent misappropriated a sum of Rs.8,170.20 in 15 recurring deposit accounts. Therefore, disciplinary action was initiated as against the 2nd respondent and criminal cases were also registered against him. 3 cases were ended in acquittal and in 3 cases, he was convicted and thereafter, he was removed from service with effect from 04.04.1990 as per the Rules. The 2nd respondent had preferred an appeal as against the conviction and the same was allowed and he was acquitted. Thereafter, charge memo was issued on 11.03.1994 and the same was challenged before the Central Administrative Tribunal and the same was also disposed by holding that there is no infirmity in the Memorandum of charges. While so, the 2nd respondent did not attend



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the enquiry proceedings to defend the case and enquiry was conducted exparte and the 2nd respondent was dismissed from service with effect from 30.09.1996 by the disciplinary authority vide Memo dated 30.09.1996. The 2nd respondent preferred an appeal as against the said dismissal order and the same was dismissed and thereafter, he filed a revision and the same was also dismissed. After 12 years, he raised an industrial dispute and the Labour Court upheld the punishment, however, directed the department to pay a sum of Rs.50,000/- to the 2nd respondent. Therefore, award of Rs.50,000/- payable to the 2nd respondent is erroneous and therefore, the said award of the Tribunal has to be set aside by allowing this Writ petition.

4. The learned counsel appearing for the 2nd respondent would submit that the Labour Court, without any records and without giving any adequate reasons, confirmed the order of the Disciplinary Authority, however, awarded a sum of Rs.50,000/- towards litigation expenses and also taking into consideration the past services of the 2nd respondent. The Labour Court has power to award cost under Section 11A of the Industrial Disputes Act. Therefore, the order passed by the Labour Court is within the purview of the Industrial Disputes Act and hence, the present Writ petition is liable to be dismissed.

5. Heard both sides and perused all the materials available on record.



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6. In this case, there is no dispute that the 2nd respondent was charged for the misappropriation of funds and punishment of dismissal from service was awarded to the 2nd respondent and the same was challenged by the 2nd respondent through an appeal and the said appeal was dismissed and thereafter, he filed a revision petition and the same was also dismissed. Thereafter, the 2nd respondent raised an industrial dispute, after a long time. In the said industrial dispute, on the side of the petitioner, WW1 was examined and Ex.W.1 to Ex.W.50 were marked. On the side of the department, MW1 was examined and Ex.M.1 to Ex.M.11 were marked. The Labour Court, after hearing both sides and perusing the records, upheld the order of the Disciplinary Authority. However, awarded a sum of Rs.50,000/- towards litigation expenses, considering the past services rendered by the 2nd respondent.

7. The main contention of the Writ petitioner is that once the Labour Court came to a conclusion that the 2nd respondent was found guilty and the punishment is also disproportionate to the charges, it cannot award cost to the 2nd respondent/workman. At this juncture, it is appropriate to refer ***Section 11(7) of the Industrial Disputes Act, which reads as follows:-***

**"Section 11. Procedure and power of conciliation officers, -
Boards, Courts and Tribunals -**



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(7) Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.]

From the bare reading of Section 11(7) of the Industrial Disputes Act, it is clear that the Labour Court has power to award cost. In this case on hand also, the Labour Court has awarded Rs.50,000/- to the 2nd respondent/workman to mitigate his financial stringency to meet the cost of litigation expenses. Therefore, the award passed by the Labour Court is within the jurisdiction and it does not warrant interference.

8. In view of the above said discussions, this Court is of the opinion that this Writ petition has no merits and deserves to be dismissed.



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9. Accordingly, this Writ petition is dismissed. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order
mjs

To

The Presiding Officer,
Central Government Industrial Tribunal-
cum-Labour Court,
Chennai.

P. DHANABAL, J.,

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