



W.P.No.11593 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.11593 of 2021

and

W.M.P.Nos.12342 of 2021 & 21727 of 2022

The Tamil Nadu Co-operative Milk Producers Federation Ltd.,
Madhavaram,
Chennai – 600 051.

... Petitioner

Vs.

R.Nagarajan

... Respondent

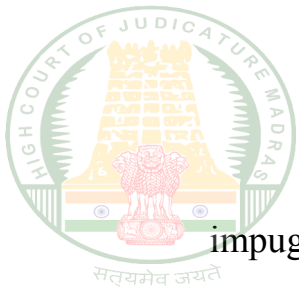
Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned order dated 06.08.2019 made in I.D.No.659 of 2003 on the file of the II Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.D.Venkatesan

For Respondent : Mr.Balan Haridas

ORDER

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Certiorari, to call for the records relating to the



W.P.No.11593 of 2021

impugned order dated 06.08.2019 made in I.D.No.659 of 2003 on the file

of the II Additional Labour Court, Chennai and quash the same.

2. The case of the petitioner is that the respondent was initially appointed as driver-cum-salesman and subsequently, placed as Heavy Vehicle Driver. The respondent and another driver were asked to bring milk through Tanker Lorry bearing Regn. No.TN-H-6050 from Tiruvannamalai to Chennai. There were complaints of pilferage of milk by the drivers by tampering the seal of the tanker, taking away milk and adding unhygienic water. On 01.09.1991, the Vigilance Squad of the petitioner inspected the road tanker that the respondent drove the said vehicle enroute but the respondent did not stop the vehicle. Hence, the Vigilance Officer chased the above vehicle and found the seal of the front and back air vent broken and further found the driver in possession of twine with seals, a wire bag with new twine ball, two rubber wash, wax and arrack seal. Originally, the milk loading point to dropping point is more than 160 kms and is normally reached within four hours in normal speed, but the respondent took seven hours to cross 160 kms. In the presence of the Vigilance Officer, the respondent and the other officers of the petitioner, the above tanker milk was tested. Based on the test



W.P.No.11593 of 2021

WEB COURT

report of the milk, it is found that the milk was adulterated. Originally, the milk contains 4.5% fat and 8.5% SNF and 8.1% SNF. The Vigilance Squad also recovered Rs.950/- from the pocket of the respondent, which he could not account for. For the above misconduct, he was placed under suspension and after conducting disciplinary proceedings, he was dismissed from service on 29.01.2001. Aggrieved by the same, the respondent raised an industrial dispute u/s 2(A)(2) of the Industrial Disputes Act, 1947 (in short the 'ID Act') in I.D.No.659 of 2003 before the III Additional Labour Court, Chennai. The Labour Court, on consideration of both oral and documentary evidence adduced by both parties, passed award, dated 06.08.2019, directing the petitioner to pay 25% backwages alone to the respondent for the period from the date of dismissal to the date of superannuation and held that the respondent is entitled for his pensionary benefits, if any, without any disqualification. Challenging the same, the present writ petition has been filed.

3. Learned counsel for the petitioner submitted that for the alleged misconduct, the petitioner has initiated disciplinary proceedings against the respondent and on the basis of the proven charges, he was dismissed from service, however the same was set aside by the labour court, which



W.P.No.11593 of 2021

WEB COPY

is not sustainable and hence, the impugned order passed by the labour court is liable to be set aside. Accordingly, he prays for allowing the writ petition.

4. Per contra, learned counsel appearing for the respondent submitted that for the above said charges, the respondent was dismissed from service in the year 1992. Subsequently, on the basis of suggestion of the conciliation officer, he was reinstated in the year 1994. After a lapse of six years, he was again dismissed from service in the year 2001, which is not sustainable. Once the order of dismissal passed against the workman is withdrawn and reinstated into service on the basis of the order of the conciliation officer, again for the very same misconduct, conducting enquiry and dismissing the workman is wholly unsustainable. The said issue was rightly appreciated by the labour court and passed the impugned award, which does not require any interference. Accordingly, he prays for dismissal of this writ petition.

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



W.P.No.11593 of 2021

WEB COPY 6. Admittedly, for the alleged misconduct, the petitioner has initiated disciplinary proceedings against the workman and he was dismissed from service in the year 1992 and subsequently, he was reinstated into service in the year 1994 on the basis of the order of the conciliation officer. For the very same charges, again the petitioner has issued another show cause notice to the respondent after a lapse of six years and again, dismissed the respondent in the year 2001, against which, the respondent had raised a dispute and the labour court has passed the impugned award, setting aside the order of termination and ordered 25% backwages in favour of the respondent, since he has attained the age of superannuation, assailing which, the present writ petition is filed.

7. Once the charges framed against the workman has been adjudicated by the management by way of conducting disciplinary proceedings and the same ended in dismissal from service and subsequently, he was reinstated into service on the basis of the order of the conciliation officer, the management cannot issue show cause notice for the very same charges after a lapse of six years. Considering the said



W.P.No.11593 of 2021

aspect, the labour court has set aside the order of termination dated 29.01.2001, which is *per se* sustainable and the same deserves to be sustained.

8. Insofar as the 25% of the backwages awarded by the labour court, this Court perused the claim statement filed by the respondent, which reveals that he has not pleaded anything with regard to his gainful employment during his non-employment period. In the absence of any such pleadings, the labour court has ordered 25% of the backwages in favour of the respondent, which is *per se* unsustainable and the same is liable to be set aside. Accordingly, the impugned order dated 06.08.2019 passed by the II Additional Labour Court, Chennai in I.D.No.659 of 2003 insofar as granting 25% backwages to the respondent is set aside.

9. Therefore, the petitioner is directed to settle all the terminal benefits to the respondent including gratuity, within a period of eight (8) weeks from the date of receipt of a copy of this order, failing which, the petitioner shall pay the same with an interest at the rate of 6% p.a. It is made clear that the respondent is entitled to continuity of service for the purpose of calculating terminal benefits and he also entitled for his



W.P.No.11593 of 2021

WEB COPY pensionary benefits if any, without any disqualification as ordered by the labour court.

10. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions closed.

22.04.2025

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

To

1.The II Additional Labour Court,
Chennai.

2.The Tamil Nadu Co-operative Milk Producers Federation Ltd.,
Madhavaram,
Chennai – 600 051.



WEB COPY



W.P.No.11593 of 2021

M.DHANDAPANI, J.

sp

W.P.No.11593 of 2021

22.04.2025