



W.P. No.20335 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.20335 of 2023

V. Soundarajan S/o. Vijayakumar

..

Petitioner

Vs.

The Management

HH 106, The Arni Silk Handloom Weaver Co-operative

Production and Sales Society Limited,

No.29, Vedapuri Easwaran Koil Street,

Kosapalayam, Arni-632 301,

Tiruvannamalai District.

..

Respondent

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of

India praying to issue a Writ of Certiorarified Mandamus directing to call for records pertaining to the Award made in I.D. No.7 of 2019 dated 30.03.2023 on the file of the Principal Labour Court, Vellore and by confirming the respondent's proceedings made in Office Order No.2/2016-17E dated 03.08.2016 and to quash the same and consequently, to reinstate the petitioner with all other attendant benefits.

For Petitioner : Mr. S. Sairaman

For Respondent : Mr. S. Yaswanth,
Additional Government Pleader

ORDER

This Writ petition has been filed challenging the order passed by the Labour Court, Vellore in I.D. No.7 of 2019 dated 30.03.2023, wherein the



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Writ petitioner has raised an industrial dispute as against the respondent Management for the dismissal order passed against the petitioner and the Labour Court dismissed the petition, thereby filed this Writ petition.

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

The petitioner was appointed as a 'Designer' in the respondent Society on 01.02.1994 and his last drawn salary was Rs.10,785/- per month. While so, the respondent Society issued a Memo dated 28.09.2015 for the allegations of manipulation of records. The petitioner also submitted his explanation dated 06.10.2015 by denying the charges and thereafter, the petitioner was suspended on 06.11.2015. Thereafter, the Management passed an order by terminating the petitioner from service on 03.08.2016. Challenging the said order, the petitioner raised an industrial dispute before the Labour Court and the Labour Court dismissed the claim of the petitioner. Aggrieved by the said order, the present Writ petition has been filed.

3. The learned counsel appearing for the Writ petitioner would submit that the Writ petitioner joined duty in the respondent Society as a 'designer' in the year 1994. Thereafter, the Management issued a Memo dated 21.04.2015 for the allegations of manipulation of records and the same has



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been suitably explained by the petitioner through a reply dated 24.04.2015.

Again, an another Charge Memo was issued by the respondent on 13.08.2015 and the same was also suitably replied on 14.08.2015. Thereafter, the respondent suspended the petitioner on 06.11.2015. In the meantime, on 28.09.2015, the respondent sent a Notice on certain allegations found in the Audit report under Section 80 of the Tamil Nadu Co-operative Societies Act and the same was also suitably replied by the petitioner. Again a Charge Memo was issued on 09.10.2015 and the same was replied by the petitioner on 17.10.2015. In spite the same, the petitioner was suspended.

3.1. Thereafter, no communication was sent to the petitioner and after some time, he came to know that he was terminated from service on 03.08.2016, but no order was served to him. Therefore, the petitioner raised an industrial dispute before the Labour Court, Vellore. The Labour Court failed to consider the fact that no domestic enquiry was conducted and without conducting domestic enquiry and by violating the standing orders, the Management terminated the petitioner from service. Therefore, there are violations of principles of natural justice and the Labour Court wrongly came to a conclusion that enquiry under the Tamil Nadu Co-operative Societies Act itself is sufficient to terminate the petitioner from service. Therefore, the



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above said findings of the Labour Court is perverse and the same is liable to be quashed.

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4. The learned Additional Government Pleader appearing for the respondent Society would submit that the petitioner committed mis-conduct and thereby, he was suspended from service and the enquiry under Section 80 of the Tamil Nadu Co-operative Societies Act was conducted and based on the enquiry, the petitioner was suspended and thereafter, his service was terminated as per the rules. Considering the seriousness of the charges, he was removed from service and therefore, the Labour Court taking into consideration the serious nature of charges, dismissed the petition filed by the petitioner. Therefore, the present Writ petition is liable to be dismissed.

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

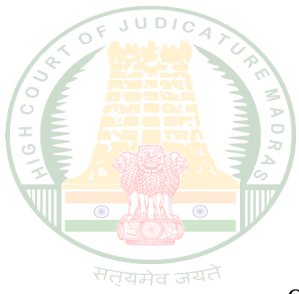
6. In this case, there is no dispute that the petitioner was working under the respondent Management and a Charge Memo was issued to him. Thereafter, without conducting any domestic enquiry, he was terminated from service. Against which, the petitioner raised an industrial dispute before the



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Labour Court. Before the Labour Court, the workman was examined as WW1 and marked one document Ex.W.1 and on the side of Management, MW1 was examined and Ex.M.1 to Ex.M.22 were marked. The Labour Court dismissed the dispute by holding that the enquiry under Section 80 of the Tamil Nadu Co-operative Societies Act is sufficient to remove the petitioner from service.

7. This Court also perused the order passed by the respondent by dismissing the petitioner from service. At the time of passing the said order, the Management has invoked Rule 27(x) of the By-laws and to pass order under Rule 27(x) of the By-laws, they invoked Rule 27(v) of the By-laws. As per Rule 29 of By-law, Sub-Clause I Proviso, where it is proposed to impose any of the major penalty specified in Items (v) to (x) in Special By-law 28, a domestic enquiry shall be conducted and the employee concerned shall be afforded an opportunity to defend himself. The respondent Authority has passed an order under Rule 27(x) by imposing major penalty of 'dismissal from service'. Therefore, domestic enquiry should be conducted and the employee should be afforded an opportunity to defend himself. But without doing the same, only based on the enquiry under Section 80 of the Tamil Nadu Co-operative Societies Act, the respondent dismissed the petitioner from service, which is on different foot.



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8. The Labour Court came to an erroneous conclusion that enquiry under the Tamil Nadu Co-operative Societies Act itself is sufficient to terminate the petitioner from service. At this juncture, it is relevant to rely upon the judgment of Hon'ble Supreme Court in ***Sandeep Kumar vs. GB Pant Institute of Engineering and Technology, Ghurdauri and others reported in 2024 SCC Online SC 541***, wherein the Hon'ble Supreme Court, in Para No.19, has held as follows:-

"19. In this background, we are of the firm view that the termination of the services of the appellant without holding disciplinary enquiry was totally unjustified and dehors the requirements of law and in gross violation of principles of natural justice. Hence, the learned Division Bench of the High Court fell in grave error in dismissing the writ petition filed by the appellant on the hypertechnical ground that the minutes of 26th meeting of the Board of Governors dated 16th June, 2018 had not been placed on record".

9. Further, the learned counsel appearing for the petitioner has also relied upon the judgment of this Court in ***B. Senthilkumar vs. The District Manager, Tamil Nadu State Marketing Corporation Ltd., (TASMAC) in W.P. No.28349 of 2011***, wherein this Court, in Para No.6, has held as follows:

"6. In the judgment relied in CDJ 2010 MHC 3226 in the case of A.Arivu Selvam and another Vs. The District Manager, The Tamil Nadu State Marketing Corporation Ltd, Perambalur District, it was held as follows,

7. As to what is the elementary principles of conducting a



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domestic enquiry came to be considered by the Supreme Court vide its judgment in Meenglas Tea Estate v. Workmen reported in AIR 1983 SC 1719. In that case, the Supreme Court took exception that in the name of enquiry, only the chargesheeted workman alone would be examined and there was no evidence let in by the employer who chargesheeted the workman. In that context, in paragraph 4, the Supreme Court has held as follows:

"4. The Tribunal held that the enquiry was vitiated because it was not held accordance with the principles of natural justice. It is contended that this conclusion was erroneous. But we have no doubt about its correctness. The enquiry consisted of putting questions to each workman in turn. No witness was examined in support of the charge before the workman was questioned. It is an elementary principle that a person who is required to answer a charge must know not only the accusation but also the testimony by which the accusation is supported. He must be given a fair chance to hear the evidence in support of the charge and to put such relevant questions by way of cross-examination as he desires. Then he must be given a chance to rebut the evidence led against him. This is the barest requirement of an enquiry of this character and this requirement must be substantially fulfilled before the result of the enquiry can be accepted. A departure from this requirement in effect throws the burden upon the person charged to repel the charge without first making it out against him. In the present case neither was any witness examined nor was any statement made by any witness tendered in evidence. The enquiry, such as it was, made by Mr Marshall or Mr Nichols who were not only in the position of judges but also of prosecutors and witnesses. There was no opportunity to the persons charged to cross-examine them and indeed they drew upon their own knowledge of the incident and instead cross-examined the persons charged. This was such a travesty of the principles of natural justice that the Tribunal was justified in rejecting the findings and asking the Company to prove the allegation against each workman de novo before it."

8. In the light of the above and there being no worthwhile enquiry conducted by the employer, the impugned orders will stand set aside. Both the writ petitions will stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.



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However, it is open to the respondent TASMAL if they so desire to conduct a proper enquiry in accordance with law and in the light of the observation made by the judgment referred to above.

This position was reiterated in CDJ 2011 MHC 4407 in the case of M.Prakash Vs. The District Manager, Tamil Nadu and ors. It is pertinent to extract the relevant portion of the order:

5.It is the allegation of petitioner that the respondent authorities are resorting to termination of contract labourers for extraneous reasons citing the adding of water as adulteration, which appears to be an easy method to remove such workers without enquiry.

6. In V.L.. Lakshmanakumar v. The District Manager, "TASMAL" Limited, Madurai District, Madurai (2006) 1 MLJ 187: (2006, 1,C.T.C. 660) this Court had an occasion to consider identical issue of dismissal of an employee on the ground of adulteration by adding water and held that the order passed without following the due process of law was bad.

7. The relevant portion of the decision cited supra reads as follows at p. 188 of (2006) 1 MLJ 187:

"(5) However, a perusal of the impugned order shows that the petitioner was not dismissed pursuant to the contract. For the purpose of dismissal, the first respondent has relied upon a surprise inspection carried out in the TASMAL shop, which revealed that some of the bottles were adulterated by mixing water and that such, act of the staff of the TASMAL had brought disrepute to the Corporation. Therefore, the petitioner/Supervisor has been removed from service.

(6) By the above reasoning, the first respondent has found that the petitioner has committed certain misconduct and the impugned order is not an order of termination simpliciter. Whether an order is an order of simple termination or would amount to stigma, thereby resulting in civil consequences, is only to be determined considering the facts and circumstances of each case. A plain reading of the impugned order passed by the first respondent makes it clear that it is not an order of termination simpliciter.

(7) The Apex Court, in more than one case, has held that when an order of termination involves civil consequences and consequently amounts to stigma,



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the same cannot be passed without there being a charge memo, enquiry and the finding as to those charges. This proposition of law has been recently reiterated by the Apex Court in the judgment in State of Harxyana v. Satyender Singh Rathore (2005) 7 SCC 518: 2005- III-LLJ-7025. In that judgment, the Supreme Court has relied upon the earlier judgment in Dipti Prakash Banerjee v. Satyendra Nath Boase National Centre for Basic Sciences, AIR 1999 SC 983: (1999) 3 SCC 60: 1999-1-LLJ-1054, and has held that if findings were arrived at in an enquiry as to misconduct behind the back of the officer or without a regular departmental enquiry, the simple order of termination is to be treated as "founded" on the allegations and will be bad.

(8) In view of the above pronouncement of Accordingly, the same is set aside and the writ petition is allowed. However, the order of the Apex Court, the impugned order cannot be sustained. of this Court will not stand in the way of the respondents to initiate action against the petitioner strictly in terms of the appointment order"

8. The above cited case squarely covers the fact of the present case. The impugned order of dismissal therefore is liable to be set aside with liberty to the respondents to initiate action as per law. The statement of the counsel for the petitioner that the petitioner will not claim backwages is recorded. The petitioner is entitled to be re-instated into service. The writ petition is allowed with the above terms. No Costs.

10. In the case on hand also, no domestic enquiry was conducted and without conducting the domestic enquiry, the major punishment of 'dismissal from service' was awarded, thereby, in view of the above said judgments, the principles of natural justice have not been followed. The Labour Court also failed to consider the said aspects and erroneously dismissed the Industrial Dispute and the same is unsustainable and liable to be set aside and accordingly set aside. Therefore, the dismissal order passed by the



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respondent Society in Office Order No.2/2016-17E dated 03.08.2016 by dismissing the petitioner from service is set aside and the respondent is directed to reinstate the petitioner into service without backwages and after reinstatement, the respondent Society is at liberty to conduct disciplinary proceedings against the petitioner as per law if so decided.

11. With the above directions, the Writ petition is disposed of. There shall be no order as to costs.

13.08.2025

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

To

1. The Presiding Officer,
Principal Labour Court, Vellore.

P.DHANABAL, J.,

mjs

2. The Management
HH 106, The Arni Silk Handloom Weaver Co-operative
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