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W.P.No.87 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.87 of 2025

M/s.Gandhi Nagar Co-operative Housing  
Society Ltd.,

Represented by its Administer

Mrs.M.Ramya

New No.22, (Old No.70)

Pumping Station Road

Near 4th Main Road, Gandhi Nagar

Adyar, Chennai - 600 020.

... Petitioner

Vs

R.Suganthi

... Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the award passed by the II Additional Labour Court in O.P.No.77 of 2020 dated 06.07.2024 and to quash the same.

For Petitioner : Mr.P.K.Ganesh

For Respondents : Mr.K.M.Ramesh, Senior Counsel  
for Mr.V.Subramani



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### **ORDER**

Challenging the order passed by the III Additional Labour Court, Chennai, in O.P.No.77/2020, in and by which, the Labour Court had declared there exists employer and employee relationship between the respondent and the petitioner, and held that the petitioner before it, falls within the definition of workman under Section 2(s) of the Industrial Dispute Act, besides, it sets aside the termination order and had directed the workman to be reinstated with continuity of service and backwages.

#### 2. The facts are as follows :

- a) The workwoman had raised an industrial dispute challenging her dismissal from service by the petitioner herein.
- b) It is the case of the workman that she had joined the respondent-Society in the year 2007 and her last drawn salary was Rs.13,000/- per month. The scope of her work included maintaining day to day accounts, day books, general ledger and also typing work as and when required.
- c) On 21.06.2019, when she reported for work, the President of the petitioner-Society did not allow her to sign the attendance



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register and had taken away all the records which were in her custody.

- d) The workwoman would submit that though she was not allowed to sign the register, she keep attending the office, and few days later, she was not even permitted to step into the society's premises. When the workwoman had insisted for a written order, the Management flatly refused.
- e) While so, on 26.12.2019, the workwoman was served with a notice by the Management stating that she did not report to work voluntarily, and as such, the Society was left with no other option, but to terminate her service.
- f) The respondent-workwoman had sent a reply to the above notice stating that she was ready to rejoin the duty and it was only the petitioner-Society, who was not permitting her to work.
- g) On 01.02.2020, the petitioner-Society had sent a letter to the respondent-workwoman, terminating her service.
- h) Challenging her non-employment and dismissal from service, the workman had raised an industrial dispute under Section



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2(A)(1) of the Industrial Dispute Act, before the Assistant Commissioner of Labour-III, Chennai, on 17.02.2020. Since there was no representation on the side of the Society, the conciliation proceedings ended in failure on 04.08.2020.

- i) Therefore, left with no other alternative, the workman had filed O.P.No.77/2020 before the III Additional Labour Court, Chennai, seeking to set aside the dismissal order and to direct the Society to reinstate her into service with full backwages, continuity of service and to pay her all attendant benefits.
- j) The III Additional Labour Court, by an order dated 06.07.2024, had allowed the said O.P, in and by which, it declared there exists employer and employee relationship between the respondent and the petitioner, and held that the petitioner therein, falls within the definition of workman under Section 2(s) of the Industrial Dispute Act. It also sets aside the termination order and had directed the workman to be reinstated with continuity of service, full backwages, however, it declined to grant the relief of all other attendant benefits and other reliefs.



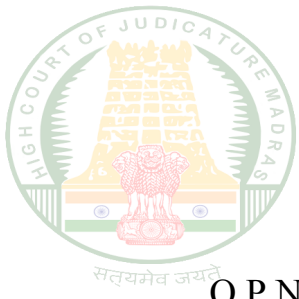
Challenging the order of the III Additional Labour Court, the Society is before this Court.

3. The workwoman would contend that her denial of service was for malafide reasons. She would submit that prior to her termination from service, she was neither issued with charge memo nor show cause notice nor was subjected to any domestic enquiry. The termination of the petitioner was a retrenchment as defined under section 2(oo) of the Industrial Disputes Act. Her contention is that she had put in more than 240 days of service preceding one year prior to her termination. The termination does not comply with the mandatory requirement of Section 25-F of the I.D.Act. She also submitted that both the oral intimation on 01.06.2019 and the written order of termination on 01.02.2020 are *per se* illegal and void termination. The workwoman would submit that she was not given any notice or notice of pay in lieu thereof nor was she paid any compensation for her past service, and had been subjected to total victimization. Therefore, on account of aforesaid reasons, she had raised an industrial dispute.



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4.1 The Management had filed their counter affidavit *inter alia* contending that the workwoman had not worked continuously for more than 12 years as alleged by her nor had attended office regularly. The workman was engaged on a contract basis as casual labourer for monthly wages and she is not a permanent staff of the Society. They would further deny the fact that the workwoman had worked for 240 days preceding one year prior to her dismissal as alleged by her. On the contrary, it is the contention of the Society that the workwoman was absent continuously for more than a month without prior intimation to the Society. The petitioner-Society would submit that it is the respondent-workman who had refused to receive the show cause notices sent by the Society on two occasions i.e., on 06.11.2019 and 29.11.2019, for her continued absence. However the said correspondences sent through registered post, was returned unclaimed. Therefore, the Society in its General Body Meeting had decided to dismiss the petitioner from service and had proceeded to pass a dismissal order on 01.02.2020. Thereafter, the workwoman had raised an industrial dispute, to which the Management had filed their objection and ultimately the conciliation ended in a failure.



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4.2 The Society would also contend that the petition in O.P.No.77/2010, filed before the Labour Court by the workwoman is not maintainable, as she is not a workman as defined under Section 2(s) of the I.D.Act, and sought for the dismissal of said petition.

5. The III Additional Labour Court, by an order dated 06.07.2024 was pleased to allow the claim of the workwoman. Challenging the same, the Society is before this Court.

6. The primary argument put forward by the petitioner-Management was that there was no employer and employee relationship between them and the respondent-workwoman. A perusal of the Labour Court records would reveal that the Management, in support of their contentions, have not let in evidence either orally or documentary. On the other hand, the workwoman had adduced oral as well as documentary evidence, and had marked 20 documents before the Labour Court, which are exhibited as Ex.W.1 to Ex.W20. The Labour Court had also come to the conclusion that the domestic enquiry has not been properly conducted by the Management. This apart, to prove that the respondent herein is an employee under the



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petitioner-Management, she had marked Ext.W15 series (4 nos) and Ext.W16 series (10 nos.) which are the xerox copies of the Attendance Register of the Society for the period August 2010 to October 2010 and January 2011 to October 2011 respectively. That part, Ex.W20, a certificate dated 10.04.2015, issued by the President of the Society to the workman would state that she is an employee of the petitioner-society. The relevant portion of the Ex.W20 is extracted below :

*"It is hereby certified that Smt.R.Suganthi, D/o.M.Ramakrishnan, is employed with us since 22.11.2007."*

The workwoman, during her cross-examination, had also deposed the purpose for which the said certificate was issued. The same would read as follows:

"Ex.W20 ஆவணம் என்ன காரணத்திற்காக இந்த வழக்கில் தாக்கல் செய்யப்பட்டுள்ளது என்றால் Pan Card விண்ணப்பித்த சமயம் அவர்கள் நான் வேலை செய்யும் அலுவலகத்திலிருந்து கடிதம் கேட்டதால், சங்கத் தலைவரிடமிருந்து நான் பெற்றுக்கொண்டதைதான் Ex.W20-ல் தாக்கல் செய்துள்ளேன்."

7. Therefore, from the above documents, it is clear that the respondent-workwoman is an employee under the petitioner-Society and admittedly, she had been denied employment with effect from 21.06.2019,



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under Ex.W10. Therefore, the only ground on the which the petitioner-  
Management has sought for the dismissal of industrial dispute, is clearly  
culled against them.

8. In the result, the writ petition is dismissed. No costs.

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Index : Yes / No  
Neutral Citation : Yes / No  
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