



W.P.No.38917 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

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M.Sathiyamoorthy

.... Petitioner

Vs.

The Special Officer Administration,
Tamil Nadu Special Police Employee,
Co-operative Thrift Benefit Society Limited,
Avadi, Chennai - 600 054.

.... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records in connection with the Award pronounced in I.D.No.82 of 2011 by the II Additional Labour Court, Chennai dated 13.04.2023 and quash the same and further direct the respondent management to reinstate the petitioner in service with back wages, continuity of service and all other attendant benefits and issue such further or other appropriate orders, directions may deem fit and proper in the facts and circumstances of the case, award cost.

For Petitioner : Mr.K.Sudalai Kannu

For Respondent : Mr.B.Tamilnidhi
Additional Government Pleader



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ORDER

This writ petition is filed challenging the award passed by the Labour Court in I.D.No.82 of 2011 dated 13.04.2023 in and by which the claim filed by the petitioner workman was rejected by the labour Court.

2. The learned counsel appearing on behalf of the petitioner would submit that upon perusal of the award, it can be seen that the petitioner has raised the industrial dispute by impugning the procedure adopted in the domestic enquiry. The entire enquiry was conducted with reference only to the fact as to whether or not the procedure adopted in the domestic enquiry is fair and proper. Once the Labour Court finds that the domestic enquiry is not fair and proper, first the Labour Court ought to have passed only a preliminary award and thereafter, an opportunity should have been given to both the management as well as the petitioner to let in such further evidence with reference to the merits of the charges.

3. In this case, the Labour Court erred in considering the merits of the charges while also considering the preliminary question, thereby the



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opportunity is denied to the petitioner workman. It is further contented that once the procedure followed in the domestic enquiry was held to be improper, only if the management let in proper evidence to prove the charges before the Labour Court, the Labour Court can consider the same and pass orders with reference to the merits of the charges under Section 11A of the Industrial Disputes Act. As such, the impugned award is liable to be interfered with by this Court.

4. Mr.B.Tamilnidhi, learned Additional Government Pleader takes notice for the respondent management and submits that there is absolutely no merits with reference to the claim of the petitioner workman.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. I am unable to accede to the prayer made in the writ petition and I hold that the writ petition is without any merits for the following reasons:-



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(i) At the outset, the petitioner, M.Sathyamoorthy, is alleged to have received a bribe from the customer of the cooperative society. A trap was set and the petitioner was caught red-handed. The judgement of the Criminal Court was marked as Ex.M1, whereby the petitioner was convicted of the criminal offence. The petitioner has now preferred an appeal and bail has been granted in the appeal.

(ii) Pending the criminal proceedings, the petitioner was dismissed from service by an order dated 09.12.2002. The petitioner preferred a revision under the Tamil Nadu Cooperative Societies Act before the Joint Registrar of Cooperative Societies and by an order dated 28.11.2003, the Joint Registrar also dismissed the revision. As against the original order of dismissal of service and the order of dismissal of revision, the petitioner preferred writ petition No. 11297 of 2010 and the writ petition was dismissed as withdrawn by an order dated 09.06.2010. The entire order passed in the writ petition is extracted for ready reference:-

“Learned counsel appearing for the petitioner seeks permission to withdraw the writ petition and she has also submitted a letter to that effect.

2. In view of the same, the writ petition stands dismissed as withdrawn. No order as to costs. Consequently, connected miscellaneous petition is closed.”



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(iii) Thus, it can be seen that the writ petition was dismissed as withdrawn and no liberty whatsoever was given to the petitioner to thereafter raise an industrial dispute. Therefore, when the petitioner challenged the order of dismissal by way of a writ petition and has withdrawn the said writ petition. Thereafter, there is no right for the petitioner once again to re-agitate the very same issue by way of an industrial dispute. This petition itself is not maintainable.

(iv) This apart, it can also be seen that the petitioner, M.Sathiyamoorthy was the Secretary of the concerned society. It has already been held that the Secretary is an officer of the Cooperative Society and is not a workman within the definition under Section 2(S) of the Industrial Disputes Act, 1947. Therefore, the petition itself is not maintainable in view of the said fact.

(v) When the petitioner was non-employed in the year 2002 and his revision was also dismissed in the year 2003, after the amendment to Section 2A came into force in the 2010, the present industrial dispute was raised only in the year 2011, beyond the period of limitation. In any event, the Labour Court has also considered the charges on merits and by taking into consideration that the self same charge itself was proved



beyond a reasonable doubt before the Criminal Court with the petitioner being convicted, the Labour Court concluded that the charge of demanding and accepting a bribe stands proved. No exception whatsoever can be taken to the said findings. The petition itself is not maintainable and suffers from the above deficiencies. The hyper-technical argument made by the learned counsel for the petitioner that the Labour Court ought to have carried out the exercise by way of a preliminary and final award, cannot be countenanced in the facts and circumstances of the instant case, especially when the petitioner withdrew the writ petition unconditionally and his claim petition itself is not maintainable.

7. Accordingly, the writ petition stands dismissed. No costs.

02.01.2025

Neutral Citation: Yes/No
nsl

To
The Special Officer Administration,
Tamil Nadu Special Police Employee,
Co-operative Thrift Benefit Society Limited,
Avadi, Chennai - 600 054.



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D.BHARATHA CHAKRAVARTHY, J.

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