



WEB COPY

WP No. 28324 of 2018



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-04-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

**WP No. 28324 of 2018
AND WMP NO. 33157 OF 2018**

1. Mahatma Gandhi National Rural
Employment Guarantee Scheme
Chairman / District Collector, The
Nilgiris District The Nilgiris

Petitioner(s)

Vs

1. Deputy Commissioner of Labour
(Appellate Authority under TN Shops
and Establishments Act), CoonoorThe
Nilgiris

2.S.Rani
D/o.subramaniyam, 4/60d,
Edaiyarpalayam, Karamadai Road,
Mettupalayam

Respondent(s)

This Writ Petition has been filed under Article 226 of Constitution of Indian, to issue a writ of Certiorari, Calling for the concerned records from the 1st Respondent quash the order of the 1st respondent dated 07.08.2017 in TNSE Case No.1 of 2017 as illegal, arbitrary and contrary to law.



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For Petitioner(s): Mr. K. Surendren, AGP

For Respondent(s): R1 And 2 - No Appearance

ORDER

The petitioner questions the correctness of the order passed by the first respondent Deputy Commissioner of Labour (Appellate Authority under TN Shops and Establishments Act) Coonoor in TNSE case No.1 of 2017.

2. Brief facts: The second respondent was employed as a part-time compute operator under National Rural Employment Guarantee Scheme sponsored by the Central Government and State Government. The petitioner alleged that the second respondent was absenting herself frequently and it has caused disruption to the work. The Block Development Officer has rejected the leave application of the second respondent vide order dated 26.05.2014. Even though a leave letter was rejected, still the second respondent did not joined duty.

3. It is the contention of the petitioner that the second was not discharging her duty properly and she was abusing her superior. It is also stated that the second respondent was not residing within the district of Ooty and she was residing at Mettupalayam, Coimbatore which is a adjacent District.

5. In respect of the above, a charge memo was issued to the second



respondent seeking her explanation. As her explanation was not satisfactory, a domestic enquiry was ordered and the Enquiry Officer submitted a report.

Based on the said report of the EO, services of the second respondent was terminated vide order dated 31.07.2014. The second respondent preferred TNSE case No.1/2017 before the first respondent questioning the order of her termination. The first respondent, on an analysis of the oral and documentary evidence, available before it, quashed the order of termination. Challenging the said order, the present writ petition has been filed.

6. The second respondent has not filed any counter affidavit rebutting to the allegations made in the affidavit filed in support of the writ petition.

7. The learned counsel for the petitioner submitted that the date entry work done by the second respondent cannot be said to be a shop and therefore, the petition/appeal filed by the second respondent before the first respondent was not maintainable. The learned counsel also submitted that the charges framed against the second respondent was serious in nature. The Second respondent has brought her husband in office and he threatened the officials who were present in the office. The learned counsel further submitted that even though a leave letter of the second respondent was rejected still she did not joined duty. Because of the lethargic attitude of the second respondent, data entry could not be made and the scheme was affected. The learned counsel therefore, submitted that the order passed by the first respondent deserves to be



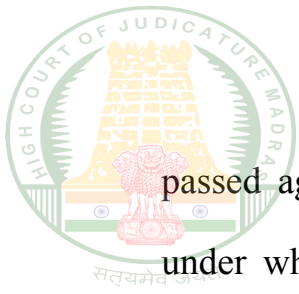
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8. The learned counsel for the second respondent submitted that at every stage of enquiry, the petitioner has chosen not to give any of the proceedings for report and principles of natural justice was not followed at any point of time. The learned counsel further submitted that the termination order was signed by the petitioner in her capacity as the District Collector. The scheme under which, the second respondent was appointed as National Rural Employment Guarantee Scheme and the District Collector were made Chairman. The District Collector was functioning the duties only as Chairman in the said scheme. The termination letter signed by the petitioner as District Collector indicates total non application of mind on the part of the petitioner. The learned further submitted that the order passed by the first respondent need not be disturbed.

9. Heard both sides and perused the materials available on record.

10. The appointment of the second respondent as Computer Operator was made for the implementation of National Rural Employment Guarantee Scheme under the leadership of the District Collector. While discharging duties under the said scheme, the District Collector assumes norm in clature of 'Chairman'.

11. A perusal of the records reveal that though termination order was



passed against the second respondent, the authority has not stated any other under which provision the termination order was passed. Likewise, an order passed by an authority is appealable. A departmental order is not a final one. Every order is appealable and a revision jurisdiction is also provided by the Government after exhausting the said avenues, the workman is entitled to challenge the orders either by invoking the extraordinary jurisdiction of this Court under Article 226 of Constitution of India or by approaching concern judicial forum. The termination order does not state anywhere whether the said order is appealable or to which authority an appeal could be made. Generally, when a employee is terminated, the authority states before whom an appeal would lie and within which period an appeal should be made. It shows that the petitioner was only in a hurry to terminate the services of the second respondent. Therefore, the petition filed by the second respondent before the first respondent is absolutely maintainable. This Court confirms the finding of the first respondent in this regard.

12. The Labour court has discussed the manner in which the departmental proceedings were conducted and held that principles of natural justice was not followed at any point of time. As rightly noted by the Labour Court, the entire department proceedings conducted in this case, is only farce one. The second respondent was not served with a copy of the complaint or enquiry report. The enquiry officer quite interestingly as called upon by the second respondent to appear before him on 15.07.2014 at 11.00 AM to offer his



explanation, failing which, a report would be submitted by the district Collector recommending further action. This Court clearly shows that the Enquiry officer was not even patient enough to give an opportunity to the second respondent to offer her explanation/defence. Likewise, even an appointment of the enquiry officer was not done in a fair manner. It seems that the petitioner has taken a decision to terminate the services of the second respondent. It seems an enquiry officer was appointed. It is clear from the way the proceedings have been conducted, the petitioner has taken a prior decision to away with the services of the second respondent.

13. Most importantly, when the Enquiry Officer submitted his report opinion that the charges stood prove that who has deposed in the enquiry and what documents were referred to. Without an iota of doubt, an enquiry conducted is only a name sake one, done without principles of natural justice. Therefore, this Court has no hesitation to hold that the order passed by the first respondent is well reasoned order, warranting no interference by this court. Hence, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16-04-2025

rlh

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To
1. Deputy Commissioner of Labour
(Appellate Authority under TN Shops
and Establishments Act), Coonoor The
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M.DHANDAPANI J.

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