



W.P.No.24722 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.24722 of 2014

and

M.P.No.1 of 2014 & W.M.P.Nos.7363 of 2017

The Special Officer/Management,
Mannarkudi Agricultural Producers
Co-operative Marketing Society Limited,
Mannarkudi.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.G.Ravichandran,
Ex. Cashier, Mannarkudi Agricultural Producers
Co-operative Marketing Society Limited,
No.30, Mettu Street,
Mannarkudi – 641 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order dated 23.01.2014 (served on 18.06.2014) made in I.D.No.34 of 2007 on the file of the 1st respondent and quash the same as illegal and untenable by appreciating above stated facts and circumstances.

[amended as per order dt. 30.10.2014 in M.P.Nos.2 & 3 of 2014 in W.P.No.24744 of 2014]

For Petitioner : Mr.D.Lakshmipathy

For Respondents : Labour Court [R1]



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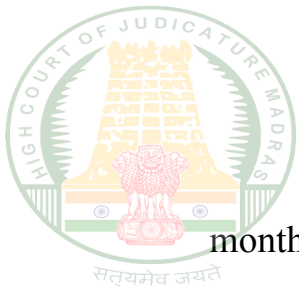
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Mrs.G.P.Arivuchudar
for M/s.Law Square [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorari, to call for the records pertaining to the order dated 23.01.2014 (served on 18.06.2014) made in I.D.No.34 of 2007 on the file of the 1st respondent and quash the same as illegal and untenable by appreciating above stated facts and circumstances.

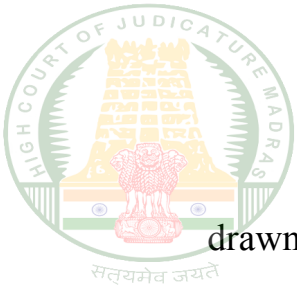
2. The case of the petitioner is that, the 2nd respondent worked as cashier in the petitioner society and he was suspended from service on 15.11.2000 for serious charge of misappropriation of funds of the society to the tune of Rs.2,77,556.96/-. Consequently, a charge memo was issued to the 2nd respondent on 27.12.2000 containing five different charges of misappropriation. Pending domestic enquiry, for non-payment of subsistence allowance, the 2nd respondent has filed a writ petition before this Court in W.P.No.7237 of 2004 and this Court, by its order dated 10.12.2004 issued a direction to the petitioner to conduct and dispose the enquiry within three months and directed the petitioner to pay three



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month subsistence allowance to the 2nd respondent. Thereafter, the hearing was posted on 12.01.2005 and the same was communicated to the 2nd respondent vide letter dated 21.12.2004. However, on 10.01.2005, the 2nd respondent sent a letter to the enquiry officer through courier stating that on 12.01.2005 he has to take his wife to treatment, hence, he requested to start the enquiry at 03.00 p.m. As per his request, enquiry commenced at 03.00 p.m. and in his presence one L.Govindan, Manager was examined as management side witness. In the course of recording of statement of the witness the delinquent interrupted and presented a letter to the enquiry officer at about 03.45 p.m. seeking leave to allow one L.Krishnamoorthy, Union President to assist him in the proceedings. The management took time for report their suggestion, hence the enquiry was adjourned to further enquiry on 21.01.2005 at 11.00 a.m. On 20.01.2005, the said L.Govindan was present and the 2nd respondent appeared before the enquiry officer only about 12.50p.m. and till such time all of them were waiting. The enquiry officer had furnished copy of the petitioner's objection letter dated 17.01.2005 to appoint L.Krishnamoorthy to represent the delinquent on his behalf. Thereafter, proceedings were adjourned to 27.01.2005. However, due to non-cooperation of the 2nd respondent, the enquiry was concluded and the *ex-parte* minutes were



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drawn and on that basis, he was dismissed from service on 14.11.2005.

Aggrieved by the same, the 2nd respondent raised an industrial dispute in I.D.No.37 of 2007 on the file of the 1st respondent. Before the 1st respondent, no witnesses were examined nor any documents were marked on the side of the 2nd respondent. However, on behalf of the petitioner, they have examined one witness namely Manohar as M.W.1 and marked 17 documents viz., Ex.M.1 to Ex.M.17. Without considering the above documents filed by the petitioner, the Labour Court arrived at a conclusion that the enquiry was not conducted in a fair and proper manner and ordered for reinstatement with continuity of service and 25% backwages. Challenging the same, the present writ petition has been filed before this Court.

3. Learned counsel appearing for the petitioner submitted that the labour court was in error in recording the finding that the due process of law was not followed in the domestic enquiry. Further, he submitted that it was indeed the workman who was dragging on the matter for quite a long time. He further submitted that only after a direction by this court, the workman co-operated with the management in completing the domestic enquiry and therefore, there was no error on the part of the



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management in conduct of the domestic enquiry. Accordingly, he prays
for allowing this writ petition.

4. Per contra, learned counsel appearing for the 2nd respondent submitted that the domestic enquiry only a farce. The management failed even to pay the subsistence allowances and the 2nd respondent was forced to approach this court by way of filing a writ petition. Only as per the direction of this court, the management had paid the subsistence allowances. He drew the attention of this court to the preliminary finding of the labour court that the enquiry was not conducted in a free and fair manner. Therefore, he submitted that the order passed by the labour court does not require any interference.

5. Heard the learned counsel for the petitioner as well as the 2nd respondent and also perused the materials available on record.

6. A perusal of the award would show that the management has grossly failed to prove the alleged misappropriation of funds by the 2nd respondent. The petitioner society has examined its manager and 17 documents were marked. However, the manager who was examined on



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the side of the petitioner society has relied only upon the report of the enquiry officer which stated that the charges against the 2nd respondent were proved. The manager has failed to demonstrate before the labour court about the misconduct of the 2nd respondent. The petitioner society has not produced documents like registers showing entrustment of society's property to the 2nd respondent, stock registers, inspection report and also brought witnesses before the labour court to demonstrate as to how the misappropriation has happened. This court is in complete agreement with the said findings of the labour court. If the order of dismissal are to be sustained merely on the basis of the enquiry officer's report, then there is no necessity for the procedure to be followed by the labour court. The labour court is court of facts and evidence and any claim should be demonstrated through oral and documentary evidence. At best, enquiry officer's report can be exhibited only as a document and it cannot be shown as gospel's truth. Therefore, this court has no hesitation to confirm the award passed by the labour court.

7. Learned counsel for the petitioner society submitted that during the pendency of this writ petition, the 2nd respondent has reached the age of superannuation and is no longer in service. Therefore, no useful



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purpose would be served if reinstatement is ordered. Learned counsel for the 2nd respondent concurs.

8. Therefore, in order to strike balance, this Court is inclined to direct the petitioner society to pay a sum of Rs.1,00,000/- as compensation in full quit apart from the amount already deposited by the petitioner by way of 17B wages. It is made clear that the 2nd respondent is not entitled to any other amount. The petitioner society is directed to deposit the said sum of Rs.1,00,000/- before the labour court in I.D.No.37 of 2007 within a period of two weeks from the date of receipt of a copy of this order. On such deposit being made, the 2nd respondent is directed to withdraw the same.

9. With the above directions, this Writ Petition is disposed of. No costs. Consequently, the connected writ miscellaneous petitions are closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.

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To

The Presiding Officer,
Labour Court,
Cuddalore.

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