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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 27.02.2026

Orders pronounced on : 27.03.2026

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.517 of 2025

The Vice President,
Human Resources,
Cognizant Technology Solutions India Pvt Ltd.,
6-8 floors, New No.165, Old No.110,
Menon Eternity Building, St.Marys Road,
Alwarpet, Chennai - 600 018.

.. Petitioner

Versus

1. Joint Commissioner of Labour (Minimum wages)
Appellate Authority Under Tamil Nadu Shops &
Establishment Act,
DMS Compound,
Teynampet, Chennai - 600 006.

2. K.N.Naresh

3. The Senior Director,
Corporate Work place Services (CWS),
Cognizant Technology Solutions India Pvt Ltd.,
6-8 floors, New No.165, Old No.110,
Menon Eternity Building, St.Marys Road,
Alwarpet, Chennai - 600 018.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records and quash the order dated 03.10.2024 passed in T.N.S.E II/7/2018 by the 1st respondent, Joint Commissioner of Labour (Minimum wages), Appellate Authority under the Tamil Nadu Shops & Establishments Act, 1947.



For Petitioner : Mr.Gupta Ravi, Senior Counsel
for Mr.C.Manohar Gupta

For Respondents : Mr.A.M.Ayyadurai,
Government Advocate for R1

: Mr.N.Suresh, for R2

ORDER

This Writ Petition is filed challenging the impugned award dated 03.10.2024 issued in T.N.S.E II/7/2018 by the 1st respondent herein, under the Tamil Nadu Shops and Establishment Act, 1947 (in short ‘the Act’).

2. The factual background in which the Writ Petition arises is that the 2nd respondent, viz., *Mr.K.N.Naresh* (hereinafter referred to as ‘the employee’), filed an appeal under Section 41 of the Act before the 1st respondent. According to the claim petition, the employee was appointed with the petitioner–company, viz., Cognizant Technology Solutions India Pvt Ltd. (hereinafter referred to as ‘the management’), with effect from 04.01.2000. Thereafter, the employee was duly discharging his duties, was granted promotions, and was appreciated for his performance exceeding expectations. While so, a show cause notice was issued to the employee on 18.04.2018, alleging that his performance level was low, amounting to misconduct, and questioning why disciplinary action should not be initiated against him. The employee submitted his reply on 23.04.2018, explaining that the charge is baseless and vindictive, and that for the past two



years, roles suitable for the employee were not assigned. He also stated that he performed the assigned work to the best of his ability. Under these circumstances, the Human Resources Talent Manager called upon the employee, and, on his advice, the employee went on leave.

3. When he returned from leave in the last week of May 2018, he found that his access ID to enter the office premises was blocked. A sum of Rs.5 Lakhs was also credited to his account. Subsequently, the employee issued a legal notice on 14.07.2018. No enquiry was conducted regarding the charges, and therefore, his termination with effect from 30.05.2018, without any written communication, is illegal. Thus, the employee prayed that the non-employment be declared as 'without reasonable cause' and that the management be directed to reinstate him into service in the same position, with all continuity of service and back wages.

4. Initially, the appeal was contested on the ground that if the oral termination was on 30.05.2018, it was not filed within 30 days. Following a preliminary objection, an application for condonation of delay was filed and subsequently allowed. The Management challenged this by way of a Writ Petition, but then the appeal was taken up for hearing on merits.



5. The Management contended that on 18.04.2018, through a show cause notice cum charge memo, the employee was informed about his poor performance and low ranking over the previous two years, and was asked to show cause regarding the same. Instead of responding, the employee stopped reporting to work from 19.04.2018, claiming he was on leave. After approximately a month, on 17.05.2018, a communication was sent highlighting his absence from 19.04.2018 without prior notice, noting that this absence was considered unauthorised and that his attendance card would be deactivated unless he reports back to work. However, the communication was returned with an endorsement 'shifted'.

6. Again, on 18.05.2018, another communication was sent to the employee, instructing him to report for work immediately and warning of disciplinary action. The said letter also returned 'undelivered'. Yet another communication dated 23.05.2018 was sent to the employee, directing him to report for work on or before 06.06.2018 and to offer a satisfactory explanation for his absence; failing which, appropriate action would be taken for his unauthorised absence. The said letter also returned 'undelivered'. The petitioner – company once again sent a communication on 30.05.2018, directing the employee to report for work on or before 06.06.2018, and mentioning that the employee was put on notice that it would be considered he was not interested in his employment and that it would then be terminated. Since the employee did



not respond by 06.06.2018, he was terminated for abandoning his job, effective from 06.06.2018, and was paid a sum of Rs. 3,48,476/- as full and final settlement of his claims. Therefore, his termination was due to unauthorised absence, and there was no oral termination on 30.05.2018. The management also submitted that it was willing to present evidence related to the charges before the appellate authority.

7. Based on the said pleadings, the employee examined himself as P.W.1 and marked documents in Exs.P1 to P15. On behalf of the petitioner-company, *Sangeetha Kannan*, Senior Executive, HR, was examined as R.W. 1 and marked the documents in Exs. R1 to R10. Thereafter, the appellate authority considered the case of the parties. It framed a question of whether the employee's claim to set aside his oral termination on 30.05.2018 and to be reinstated into service could be accepted.

8. The appellate authority considered the oral and documentary evidence on record. The appellate authority found that the termination order dated 06.06.2018 was admittedly not sent through registered post with due acknowledgement card as per the Act. The appellate authority noted the evidence of M.W.1, admitting that no enquiry was conducted regarding the charge of unauthorised absence. Even the termination order was not received by the employee when it was sent through courier. In the absence of a proper



enquiry and considering that the charges were only for poor performance and unauthorised absence, the non-employment was deemed illegal due to the lack of any enquiry and proper service of the dismissal order, and the appeal was allowed. Aggrieved by the same, the present Writ Petition is filed.

9. *Mr.Gupta*, the learned Senior Counsel appearing on behalf of the management, submits that earlier the management challenged the irregularity of filing the appeal without even presenting a condonation delay application. The management's case is that repeated notices were sent, and finally, an order of termination was passed. When these communications were marked as Exs.R2 to R8, the appellate authority should have considered that there was no oral termination of service as on 30.05.2018; it should have noted that the termination order dated 06.06.2018 was not challenged by the employee. In fact, the access card details were produced as Ex.R1 clearly shows that the employee visited the office on 31.05.2018. During cross-examination, he admitted that he was in the office and met with HR personnel that day. Therefore, the question of oral termination effective from 30.05.2018 does not arise. The employee's case is therefore bound to fail. Additionally, in the alternative, since the counter-affidavit explicitly states that the management is willing to produce evidence regarding the merits of the charges. M.W.1 was examined and spoke about these charges. The appellate authority failed to follow this procedure or consider the merits of the charges, and as a result, the



impugned award cannot be upheld. The learned Senior Counsel contends that, even if the company's case is not accepted on merits, this is a case where only compensation should be awarded, not reinstatement with back wages.

10. *Per contra*, Mr.N.Suresh, the learned counsel appearing on behalf of the employee/second respondent, submits that before filing an appeal, the employee issued a legal notice. He clearly stated that, when the show-cause notice was issued, he duly submitted his explanation. This explanation is marked as a document, and during cross-examination, the company admitted that it had been submitted. Additionally, the termination order states that the employee was absent without authorisation from 18.05.2018. However, the management's case is riddled with contradictions, while the employee's clear and consistent case is that when the show cause notice was issued, and he submitted his explanation, alleging unfair treatment by his superior, it was the HR Manager who advised him to go on leave with the promise that the issue could be resolved. After serving the company for a long period, the employee's access to the office and his email ID were abruptly blocked, violating basic human rights, and he was dismissed from service. On 31.05.2018, after much pleading, he was only permitted to meet the HR professional, not his regular office. Even then, the issue remained unresolved, and subsequently, the employee's account was credited, prompting him to file the appeal.



11. I have considered the rival submissions from both sides and examined the material records of the case.

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12. Firstly, the case of the employee is that he was orally terminated, and no termination order was served on him. The case of the management is that the oral termination did not take place on 30.05.2018; however, a written termination order was issued on 06.06.2018. Admittedly, the order was not served on the employee. In cross-examination, the employee stated that he had uploaded the change of address on the portal. Even though management claims the order was served via e-mail, the employee specifically denied receiving it during cross-examination. Despite this, the management did not produce any proof that the order or earlier communications were sent via email. In any event, as per Rule 9(2) of the Tamil Nadu Shops and Establishments Rules, 1948, the employee's cause of action to challenge the termination arises upon communication of the order, either personally or, if impractical, by prepaid registered post.

13. It is pertinent to note that, regarding earlier communications, the management claims to have repeatedly sent notices through courier, which were returned. When the employee was given a hearing on 31.05.2018 before the HR manager, the management chose not to hand over those communications in person. Moreover, the last letter from management, dated 30.05.2018, instructed



the employee to report for work by 06.06.2018. When the employee reported to the office and appeared before the HR manager on 31/05/2018, neither the termination order nor management's pleadings mentioned this. Therefore, after a careful review of the evidence, it appears that, in response to allegations of low performance, management merely instructed the employee to proceed on leave. Later, not even an oral termination was announced; instead, access to the workplace was simply blocked. Having worked for about 18 years since 2000, the employee was simply not permitted to enter the office.

14. The management failed to prove its repeated communications, as the employee asserts the intimation of his change of address. No proof of email communication was provided despite management's claims. The written order was not served on the employee. When the management's case of terminating the employee by a written order has failed, the overall facts and circumstances point to oral termination. Though a plea is made that the management is ready to let in evidence, and it did not stick to its case that the employee was terminated on account of the charge of low performance. As a matter of fact, upon going through the evidence of M.W.1, except to state that the showcase notice was issued for the same, nothing was explained with regard to the same. It can be seen that the management shifted to the new charge of unauthorised absence as the reason for termination. It can be seen that management's case is that, after the communication dated 30.05.2018, the employee was not absent.



The access card particulars prove that, except for access to the concerned floor to meet the HR professional, access to his regular place of work was denied.

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15. Even with reference to the original allegation that the employee stopped reporting for work from 18.03.2018 onwards, it can be seen that in the cross-examination, M.W.1 has admitted that in the termination order, it was mentioned as if the employee was unauthorizedly absent from 18.05.2018. Thus, there is absolutely no clear and categorical case put forth by management to insist upon the procedure of passing a preliminary award and thereafter considering the evidence on merits. In any event, the entire case of the management remains unacceptable. Finally, the alternative plea is to award compensation, in lieu of reinstatement with back wages. The allegation is only of underperformance, and when the show cause notice was issued, and when the employee pointed a finger at other co-employees, this is not a case of a lack of confidence.

16. Further, it can be seen that the employee has put in 18 years of service. After such long years of service, the least expected from the management is to at least summon the employee before a responsible superior official, serve the termination order, and send him out. Those in management positions must adopt an empathetic approach, putting themselves in the shoes of these employees. Merely because these companies have a Smart Card Access



System for entry into the office, the said security system cannot be used as a means of terminating services. Such abrupt turnaways at the gate directly violate the basic dignity of labour. It breaches the right to fair working conditions and protections against employment guaranteed under Article 23(1) of the Universal Declaration of Human Rights that forms part of Human Rights as defined under Section 2(d) of the Protection of Human Rights Act, 1993. In such cases, this Court cannot exercise the extraordinary and equitable jurisdiction under Article 226 of the Constitution of India to grant any relief to the Management.

17. For all the above reasons, the award passed by the 1st respondent dated 03.10.2024 in T.N.S.E II/7/2018 does not warrant any interference. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs.

27.03.2026

Neutral Citation : Yes/No
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To

The Joint Commissioner of Labour (Minimum wages)
Appellate Authority Under Tamil Nadu Shops & Establishment Act,
DMS Compound,
Teynampet, Chennai - 600 006.



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D.BHARATHA CHAKRAVARTHY, J.

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