

Management of A.a. 217 Vellakoil Primary Agricultural Co-operative Bank Ltd. Vs Presiding Officer, Labour Court and Another

Court: Madras High Court

Date of Decision: Jan. 1, 2002

Acts Referred: Constitution of India, 1950 " Article 226
Industrial Disputes Act, 1947 " Section 2A

Citation: (2002) 94 FLR 916 : (2002) 3 LLJ 248

Hon'ble Judges: V.S. Sirpurkar, J

Bench: Single Bench

Advocate: S. Ravikumar and M. Jai Chandran, for the Appellant; K.V. Shanmuganathan, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

V.S. Sirpurkar, J.

In this writ petition, the award passed by the Labour Court reinstating the second respondent S. Gunasekaran is being challenged. At the relevant time, i.e., in the year 1983, Gunasekaran was working as a clerk. He was suspended by an order, dated November 9,

1983 and on December 3, 1983, a chargememo was said to be served on him. However, according to the management, he refused to take the

chargememo as well as the suspension order. Ultimately, he came to be dismissed. The said Gunasekaran, therefore, raised a dispute u/s 2-A of

the Industrial Disputes Act and the management offered to substantiate the dismissal by proving all the charges which were framed before the

Labour Court itself.

2. The case of the second respondent before the Labour Court was that in fact there was no chargememo given and no domestic enquiry ever had

been held against him. As against this, the management pleaded before the Labour Court that the workman had declined to receive the order of

suspension, dated November 9, 1983, and that he had also failed to receive the chargememo. Since the workman did not hand over the charge,

the chargememo was published in the newspaper and it was only thereafter the workman handed over the charge on December 5, 1983 and

remitted the sale amount of Rs. 2,594.76. The management pleaded that the Board passed a resolution and directed the sub-committee to initiate

action against the workman and it was on the basis of the suggestion of the sub-committee, the workman was removed from service with effect

from February 28, 1984. As has been mentioned earlier, since the management offered to prove the misconduct on the seven charges framed

against the workman, the matter was thereafter examined by the Labour Court and the Labour Court came to the conclusion that none of the

charges could be said to have been proved. The seven charges were:

(1) He has given fake certificates as if summons were served to a member who is not alive.

(2) He has committed a serious offence as if summons has been served to a member of the society who had already died, either by forgery of his

signature or by arranging to get his signature forged.

(3) He has forged the signatures of the members who had not been present in the general body meeting.

(4) He has sold maida for Rs. 154-50 but had prepared the chit for Rs. 100-50 and after having entrusted the same to the society temporarily

misappropriated Rs. 54-00.

(5) He, without applying for any leave or obtaining permission did not attend to his duties from October 1, 1983 to October 7, 1983 and thus has

shirked work.

(6) He has refused to receive the memo, dated October 8, 1983, issued by the President and was disobedient.

(7) He has refused to receive the order of the President and was disobedient.

It seems that in support of the charges, the oral as well as the documentary evidence was let in and the management examined three witnesses,

namely, Shanmugasundaram, Balasubramanian and Chinnasamy. On behalf of the workman, he examined himself. There are as many as 34

documents filed and proved by the workman, while 32 documents have been filed and proved by the respondent-management. After the

appreciation of the evidence, the Labour Court came to the conclusion that none of the charges could be said to have been proved and therefore,

ordered the reinstatement of the workman, with back wages, continuity of service and all the other attendant benefits. It is this award which is in

challenge before me in the present writ petition.

3. The learned counsel for the petitioner very painstakingly took me through the whole award and tried to point out that though there were ample

evidence available on record atleast in support of the first three charges, for the remaining four charges, the Labour Court had actually ignored the

evidence and thus the findings of the Labour Court on fact were perverse and could not be supported. I have gone through all these findings which

are undoubtedly the findings of fact. In so far as the first and second charges are concerned, the Labour Court has found that there was no material

on record to suggest that the petitioner had given a fake certificate of services of summons on one Periyasami who was already dead. The Labour

Court has observed that the management had to prove that the petitioner was appointed for serving summons and that it has also to prove that it

was only the petitioner who had actually served the summons and it should also prove that the petitioner had issued the summons and that he alone

had given a false certificate that the summon was served. The Labour Court has observed that there was nothing on record to suggest that the

petitioner was asked to serve the summons and that it was the petitioner who himself had served the summons or had put his signature on the

service report. I do not see any error having been committed by the Labour Court in appreciating the evidence.

4. As regards the third charge, that he had forged the signatures, the Labour Court has gone through the evidence in a most detailed manner and

has observed that it could not be proved that it was the workman himself who wrote the signature of the members Chinnasamy, Lingasamy and

Balasubramanian. If the authorship of the alleged forgery itself was proved, there could be no question of the workman committing any forgery. All

that the management had proved by examining Balasubramanian and Chinnasamy was that the signatures which appeared on the record were not

that of Balasubramanian and Chinnasamy. However, unless it was proved that those signatures were made by the workman himself, no offence

could be brought home and that is precisely the fact finding of the Labour Court. I do not find anything wrong with that finding. Even as regards the

alleged misappropriation of Rs. 54, the Labour Court has observed that it could be a mistake and that there was no deliberate misappropriation on

the part of the workman. In Para. 11, the Labour Court has discussed all the evidence including the evidence of M.W 1 Shanmugasundaram and

also taken into consideration the documents. Even as regards the fifth charge of unauthorised absence from October 1, 1983 to October 7, 1983,

the Labour Court has found in favour of the workman suggesting that there appeared to be a correction in the attendance roll. The case of the

workman that he had applied for leave, but his absence was allowed to be casual leave has been accepted by the Labour Court for good reasons.

The other two charges are simple. The charges of refusal to accept the order of the President are really minor charges, but even about those

charges, the Labour Court has held that the management was not able to prove. In short, the Labour Court has considered all the documents and

the oral evidence and has discussed the same in detail. The Court in its jurisdiction under Article 226 of the Constitution of India sitting in an appeal

over the award of the Labour Court could not deal with the question of fact unless such finding shown by the Labour Court was perverse and such

as could not have been urged at all. That is not the case here. I have seen the order myself and I am convinced that the Labour Court has written a

proper order after properly considering all the evidence on record.

5. In short, this writ petition has no merits and has to be dismissed. It is accordingly dismissed but without any order as to costs. Consequently, the

connected W.M.Ps are also dismissed.