

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6039 OF 2010

TAMIL NADU FOREST DEPARTMENT STAFF  
CO-OPERATIVE THRIFT & CREDIT SOCIETY LTD.  
REP. BY ITS SPECIAL OFFICER

APPELLANT

VERSUS

SPL.DEPUTY COMM.R.OF LABOUR & ANR.

RESPONDENTS

O R D E R

Heard Sri R. Nedumaran, learned counsel for the appellant and Shri Gautam Narayan, learned counsel for Respondent No.2.

Respondent No.2-P.Dhanapal was in service of the appellant-Society, working as a salesman. He was terminated from service by the appellant-Society vide order dated 01.09.1992. The 2<sup>nd</sup> respondent has questioned the said order by way of appeal before the appellate authority under the provisions of, The Tamil Nadu Shops and Establishments Act (hereinafter referred to as "the Act"). The appellate authority by order dated 01.08.1994 has allowed the appeal by setting aside the order of termination. The said order was challenged by the appellant-Society by way of writ petition in W.P.No.5135 of 1996 before the High Court. The High Court vide order dated 11.04.2002 has set aside the order of the appellate authority and remitted the matter to the appellate authority for fresh consideration on merits.

After remand, the appellate authority had again allowed the appeal filed by respondent no.2 mainly on the ground

that the order of termination was passed in violation of provision under Section 41 of the Act. Even before this Court it is not disputed that the order of termination was not preceded by one month notice or wages in lieu of the same, as prescribed under Section 41 of the Act. The order of the appellate authority was confirmed by learned Single Judge of the High Court. When the appellant-Society has carried the matter by way of writ appeal, the Division Bench of High Court on the ground that appellant-Society has already closed the shop, in which respondent no.2 was working as a salesman, has ordered payment of lumpsum compensation of Rs.3,40,498/- in lieu of reinstatement and back wages. As against the said order this appeal is filed.

While issuing notice vide order dated 06.07.2009, this Court granted interim relief on condition of payment of half of the awarded amount to the respondent no.2-workman within a period of four weeks from the date of passing of the order.

The only contention advanced by the learned counsel for the appellant is that the 2<sup>nd</sup> respondent was working as salesman in the shop run by the appellant-Society, and in view of closure of the said shop he was terminated from service. Thus it is the submission of the counsel that as the termination was for a reasonable cause as such same was in accordance with law. Said plea of the counsel for the appellant cannot be accepted for the reason that Section 41 of the Act makes it clear that, no termination is

permissible without giving one month's notice or wages in lieu of the same. The reasonable cause pleaded for termination is no ground to violate the mandatory provision under Section 41 of the Act, which is a beneficial legislation for the workers working in shops and establishments. In view of the concurrent findings recorded by the appellate authority and the High Court, we do not find any illegality in the impugned order so as to interfere with the same in this appeal.

The learned counsel appearing for the respondent no.2 by referring to the order dated 06.07.2009 passed by this Court, has submitted that the appellant be directed to pay remaining half of the amount payable to the respondent no.2 with a reasonable interest.

Having regard to the fact that the appellant-Society has already closed the shop in question, and in absence of any appeal by the workman, we are of the view it is not a fit case to order any interest on the half of the amount which is payable to the 2<sup>nd</sup> respondent.

For the aforesaid reasons, this appeal is dismissed. The appellant-Society shall pay remaining half of the amount to the 2<sup>nd</sup> respondent within a period of eight weeks from today.

.....J.  
[R. SUBHASH REDDY]

.....J.  
[HRISHIKESH ROY]

NEW DELHI;  
SEPTEMBER 14, 2021

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No. 6039/2010

TAMIL NADU FOREST DEPARTMENT STAFF  
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Date : 14-09-2021 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY  
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. R. Nedumaran, AOR

For Respondent(s) Mr. Amit Anand Tiwari, AAG  
Dr. Joseph Aristotle S., AOR  
Ms. Preeti Singh, Adv.  
Ms. Ripul Swati Kumari, Adv.  
Mr. Vinodh Kanna B., AOR  
  
Mr. Gautam Narayan, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed in terms of signed order.  
Pending application(s) shall also stand disposed of.

(RAJNI MUKHI)  
COURT MASTER (SH)

(DIPTI KHURANA)  
COURT MASTER (NSH)

(Signed order is placed on the file)