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TERMINATION WITHOUT PROOF OF SERVICE OF ORDER INVALID

The Madras High Court (“**HC**”) in *Cognizant Technology Solutions* case¹ examined whether termination of an employee’s services without proper communication of the dismissal could be sustained under the Tamil Nadu Shops and Establishments Act, 1947 (“**Act**”), and whether reinstatement with back wages was justified in cases of abrupt termination of employment.

Brief Facts.

K.N. Naresh (“**KNN**”) filed an appeal under Section 41 of the Act before the Joint Commissioner of Labour (Minimum Wages) (“**JCL**”) challenging his termination by Cognizant Technology Solutions India Pvt. Ltd. (“**Cognizant**”). A Show Cause Notice (“**SCN**”) alleging poor performance was issued by Cognizant. KNN submitted a reply denying the allegations and explaining that suitable roles had not been assigned to him. Cognizant’s HR Manager advised KNN to go on leave. KNN alleged that upon returning from leave in May 2018, his access and official email ID were blocked and a sum of Rs. 5 lakhs was credited to his account by Cognizant without any written communication. Treating this as illegal oral termination, KNN sought reinstatement with continuity of service and back wages through the appeal. Cognizant contested this before the JCL on the preliminary grounds of limitation, following which KNN filed a condonation of delay application, which was allowed by the JCL. Aggrieved by the order, Cognizant filed the present petition before the HC, which heard the matter on merits.

KNN’s Contentions.²

- KNN had submitted a reply to the SCN and denied allegations of poor performance, asserting that he had performed assigned work to the best of his ability.
- The HR Manager had advised him to proceed on leave and assured him that the issue would be resolved.
- On returning, his access and email ID were blocked without enquiry or communication, and he was effectively removed from service without any dismissal order being served.
- Cognizant’s case contained contradictions regarding the date and nature of alleged unauthorised absence and failed to establish proper service of notices or termination order.

Cognizant’s Contentions.³

- KNN’s case of “oral termination” was untenable since a written termination order had been issued in May 2018.

¹ *The Vice President, Human Resources, Cognizant Technology Solutions India Pvt. Ltd. v. Joint Commissioner of Labour (Minimum Wages) & Ors* | 2026: MHC:1277 | Click [here](#) to read the judgement.

² Paragraph 10 of the Judgement

³ Paragraph 9 of the Judgement.

- Repeated communications directing KNN to report for work had been sent, and his failure to respond amounted to unauthorised absence and abandonment of employment.
- The access card records showed that KNN attended the office on May 31, 2018, and therefore his claim of being denied entry was incorrect.
- Argued that it was willing to adduce evidence regarding the charges and, even if the dismissal was found defective, compensation rather than reinstatement with back wages ought to have been awarded.

Judgement & Reasoning.

The HC:

- Found that Cognizant’s case rested on a written termination order, yet “*admittedly, the order was not served on the employee.*”⁴
- Noted that despite claims of repeated courier and email communications, Cognizant failed to produce proof of delivery and did not personally serve communications when KKN admittedly met HR personnel.⁵
- Rejected Cognizant’s plea to adduce evidence on the merits of misconduct, observing that there was “*absolutely no clear and categorical case*” regarding the charges and that Cognizant had shifted from allegations of poor performance to unauthorised absence.⁶
- Underscored that after 18 years of service, “[*t*]he 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.”⁷
- Strongly criticised the use of smart card access and security systems to effect dismissal, holding that “*such abrupt turnaways at the gate directly violate the basic dignity of labour.*”
- Linked such treatment to the right to fair working conditions protected under Article 23(1) of the Universal Declaration of Human Rights and recognised under the Protection of Human Rights Act, 1993.⁸

Hence, the HC dismissed the writ petition, thereby allowing KNN’s reinstatement with continuity of service and back wages.

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⁴ Paragraph 12 of the Judgement.

⁵ Paragraphs 12 and 13 of the Judgement.

⁶ Paragraph 14 and 15 of the Judgement.

⁷ Paragraph 16 of the Judgement.

⁸ *Ibid.*