

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A. No.939 of 2015

I. Periyasamy

Appellant/Petitioner

vs.

1 The Presiding Officer
Labour Court
Tiruchirapalli

2 The Special Officer
Ty. Special 117
Pasumbalur Growers Cooperative Bank Ltd.
Pasumbalur (via) V. Kalathur
Perambalur Taluk
Tiruchirappalli District

Respondents/Respondent

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 23.02.2004 passed in W.P. No.3281 of 1997.

Petition under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Award of the Labour Court, Tiruchirapalli dated 29.2.1996 made in I.D.NO.1/1994 quash the same and direct the 2nd Respondent to reinstate the petitioner as salesman in the Second Respondent Society/Co-operative Bank.

For appellant Dr. G. Krishnamurthy

For R2

Mr. L.P. Shanmugasundaram

Special Government Pleader (Cooperative)

JUDGMENT

(Judgment of the Court was delivered by Satish K. Agnihotri, J.)

The instant intra-Court appeal is directed against the order dated 23rd February, 2004 rendered in W.P. No.3281 of 1997.

2 The brief facts leading to the filing of the instant appeal are that the appellant was appointed as a Salesman in the second respondent bank vide order dated 27th September 1984 with effect from 15th September 1984. Subsequently, by order dated 1st February 1988, the appellant was dismissed from service on the ground that his

appointment was made de hors the provisions of the relevant rules, as the said appointment was not made through employment exchange and also, on the date of appointment, the appellant was over-aged. Feeling aggrieved, the appellant raised a dispute under the provisions of Section 2A of the Industrial Disputes Act in I.D. No.1 of 1994. The Labour Court, by award dated 29th February, 1996, held that the dismissal order was just and proper and in accordance with law. Thereagainst, the appellant filed the instant writ petition challenging the said award and also for a consequential direction to the second respondent-cooperative bank to reinstate him as Salesman. The learned Single Judge upheld the award and dismissed the writ petition as under:

"7.Two reasons are stated for upholding the order of termination viz., that the petitioner was not recruited through employment exchange and that he was aged more than 30 years at the time of recruitment. In terms of the judgment of the Division Bench of this Court as cited above, it was held by the Division Bench, that G.O.Ms.No.86 would apply only to the appointments made after 12.3.2001 and that as regards the appointments made from 9.7.1980 to 11.3.2001, they have to be regularised only to the extent of exempting sponsorship by the employment exchange.

8.Though the issue of mode of appointment not being through the employment exchange will not arise in the case of the petitioner, the fact remains that the petitioner when appointed was more than 30 years old. It is not disputed before me that the Standing Order of the second respondent do not permit or authorise any employment being offered to a person was more than 30 years of old."

Thus, the instant writ appeal.

3 The sole ground raised before us is that the management ought to have granted age relaxation while confirming the employment and as such, the orders rendered by the Courts below are not sustainable in the eye of law.

4 We have heard the learned counsel for the appellant and the learned counsel for the second respondent and also perused the pleadings and documents appended thereto.

5 The fact that the age of the appellant was more than 30 years at the time of appointment, much beyond the maximum age prescribed for appointment, is not in dispute. The appellant failed to produce any material to establish that the criteria of outer limit of age was relaxed. It is also not the case of the appellant that

the employer knew his age at the time of appointment. Thus, it was presumed to have been condoned.

6 The indisputable fact is that the appointment of the appellant was beyond the age limit prescribed. The appellant had never informed the correct age at the time of appointment. Thus, the subsequent decision to dis-continue his service by way of dismissal cannot be faulted with. As such, the consequential order rendered by the Labour Court and confirmed by the learned Single Judge is just and proper, warranting no interference.

7 Resultantly, the writ appeal is dismissed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

vvk
To

1.The Presiding Officer, Labour Court, Tiruchirappalli

2.The Special Officer

Ty. Special 117

Pasumbalur Growers Cooperative Bank Ltd.

Pasumbalur (via) V. Kalathur

Perambalur Taluk

Tiruchirappalli District

1 cc to Mr. L.P. Shanmugasundaram, Advocate Sr.No.38550

ug(co)
pmk.20.8.2015

W.A. No. 939 of 2015

सत्यमेव जयते

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