

In the High Court of Judicature at Madras

Dated :: 20.04.2016

Coram ::

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No: 38402 of 2015

A.Venkatesan
S/o. Ayyasamy
Periyeripatti Post
Tholasampatti
Omalur Taluk
Salem District.
-vs-

... Petitioner

1. The Presiding Officer,
Labour Court,
Salem.
2. The Management,
No.106, Tholur Primary Agricultural
Co-operative Credit Society Limited,
Rep. by its President,
Tholur, Pagalpatti Post,
Omalur Taluk, Salem District.
3. The General Secretary,
Salem region all employees Sangam,
Reg.No.944/Salem 44-A,
Mariamman Kovil Street,
Hasthampatti,
Salem - 7.

.. Respondents

Writ Petition under Article 226 of the Constitution of India
praying for issuance of a writ of certiorari calling for the
records of the award in I.D.No.24 of 2014 dated 28.05.2015 on the
file of the first respondent and quash the same.

For petitioner :: Mr.M.S.Palaniswamy
For resp. 2 :: Mr. L.P.Shanmughasundaram
Special Government Pleader

For resp.3 :: Mr. K.V.Shanmuganathan

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O R D E R

With the consent of the learned counsel on either side the
writ petition itself is taken up for final disposal.

2. The petitioner is an employee of the second respondent society who is working as a Senior clerk in the society and he is aggrieved by the order passed by the Labour Court, Salem, in I.D. No: 24 of 2014 in a dispute raised by the 3rd respondent Union on behalf of one of its members Tmt. Devaki concerning the promotion granted in favour of the petitioner vide order dated 02.05.2008.

3. The Labour Court adjudicated the dispute, considered the documentary evidence placed before it by the 3rd respondent Union and since the Management did not even care to lead any oral and documentary evidence accepted the case of the third respondent and set aside the order dated 02.05.2008. As a consequence of which, the promotion granted in favour of the petitioner has been set aside. Therefore, the petitioner has challenged the impugned award on the ground that he has been condemned without being heard.

4. After hearing the learned counsel for the parties, it is clear that if the order of promotion dated 02.05.2008 promoting the petitioner has been set aside without issuing any notice to him, on the said sole ground the impugned award is liable to be set aside. In such event, the consequence that should follow is that the matter should be remitted back to the Labour Court, Salem, for fresh consideration. However, this Court put a suggestion to the learned counsel appearing on either side that instead of sending back the matter to the Labour Court, the matter can be directed to be examined by the Joint Registrar of Co-operative Societies, who is the revisional authority and who would be in a position to examine the files and records and come to a conclusion. However the learned counsel appearing on either side submits that only the aggrieved employee namely Devaki has to file a revision in her personal capacity as before the Labour Court, Salem, her case was represented by the 3rd respondent Union. The learned counsel appearing for the petitioner as well as the third respondent are fully agreeable for such a proposal.

5. In the light of the above, the writ petition is allowed. The impugned award is quashed and the matter is remanded to the Joint Registrar of Co-operative Societies, who is directed to go through the entire records relating to the order of promotion dated 02.05.2008 and after notice to the petitioner, Mrs. Devaki and to the representatives of the 2nd respondent society and after hearing them in person, the Joint Registrar shall pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. Since the Joint Registrar of Co-operative Societies and Mrs. Devaki are not parties to this writ petition, the Registry is directed to communicate a copy of this order to the Joint Registrar of Co-operative Societies, Salem and Tmt. Devaki, Senior

Clerk in the 2nd respondent society. Connected miscellaneous petitions are closed. There shall be no orders as to the costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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+1 cc to Mr.L.P.Shanmugasundaram Advocate sr.24641
+1 cc to Mr.K.V.Shanmuganathan Advocate sr.24641

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W.P. No: 38402 of 2015

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