

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.780 of 2013

The Management/Special Officer,
H.H.617, Nallur Primary Agricultural
Co-operative Credit Society,
Nallur and Post, Vandhavasi Taluk,
Thiruvannamalai District. Petitioner
Vs.

1.The Principal Labour Court,
Vellore Court, Vellore District.

2.P.Irusan Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for the records in C.P.No.154/2011 dated 12.10.2011 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.M.K.T.Gopu

For Respondents: Mr.S.T.Varadarajulu for R2

ORDER

Heard Mr.M.K.T.Gopu, learned counsel appearing for the petitioner and Mr.S.T.Varadarajulu, learned counsel appearing for the second respondent.

2. The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorari, to call for the records in C.P.No.154/2011 dated 12.10.2011, on the file of the first respondent herein and quash the same."

3. The case of the petitioner is as follows:

The second respondent-workman joined the service of the petitioner Society as Salesman on 01.01.1979. Thereafter, he was promoted as Attender 09.03.1999. According to him, though he was promoted as Attender, he was directed to work as Clerk from 09.03.1999 and he continued as such till the date of retirement on 30.06.2009.

4. According to the workman, though he was asked to do the duty of Clerk which he had been discharging till the date of retirement on 30.06.2009, he was paid only the wages which was applicable to the post of Attender. In the said circumstances, the second respondent-workman raised an Industrial Dispute before the Labour Officer. But, during the pendency of the dispute, 12(3) settlement was arrived at between the second respondent-workman and the petitioner management.

5. In view of the settlement, the Industrial Dispute was not pursued. However, subsequently and admittedly, the said 12 (3) settlement was not implemented. In the above circumstances, the second respondent-workman filed a computation petition 154/2011, before the first respondent-Labour Court, claiming differential wages as between the post of Clerk and Attender for the period when he worked as Clerk from 09.03.1999 till 30.06.2009.

6. The petitioner herein have filed their objections resisting the claim of the second respondent-workman, before the Labour Court. According to the petitioner management, the second respondent-workman was factually employed only as Attender and therefore, was not entitled to the wages as applicable to the post of Clerk.

7. However, the Labour Court over ruled the said objections and found that the claim of the workman is established and had given a clear finding that the second respondent-workman had been employed as Clerk and therefore, was entitled to the wages payable to the said post. The Labour Court has given a clear finding in paragraph 8 of the order, stating that a number of letters have been written by the workman earlier to the filing of the computation petition, requesting for wages payable to the post of Clerk.

8. The second respondent-workman has also given oral evidence in support of his claim. The first respondent-Labour Court has also found that the management have not cross examined the evidence tendered by the workman on the aspect of whether he was actually employed as Attender or Clerk. In fact, the Labour Court has rendered a clear finding, not even a suggestion was made to that effect by the Management.

9. The learned counsel appearing for the petitioner management would submit that the Labour Court has misdirected itself by allowing the claim petition as the workman was not employed as Clerk. He would draw the attention of this Court to paragraph 11, wherein the factum of the workman being employed as Clerk was disputed. However it has to be seen that what is found in paragraph 11 of the order is only counsel's

submission and no evidence was adduced or let in before the Labour Court in rebutting the claim of the workman. In the absence of any contra evidence, the Labour Court has come to a clear finding that the workman had established his claim beyond any doubt and therefore proceeded to compute the wages payable for the period in questioning and finally arrived at a figure of Rs.4,67,000/- being the differential wages payable to the workman for being engaged as Clerk from 09.03.1999 till 30.06.2009.

10. This Court has gone through the order passed by the Labour Court and also perused the pleadings and materials placed on record, except stating that the second respondent-workman was factually appointed as only Attender. There was no worthwhile attempt has been made by the petitioner management to rebut the evidence adduced by the workman that he was indeed employed as a Clerk though appointed as Attender. In the absence of contra evidence, the claim of the workman was well established. It does not call for any interference of this Court.

11. In the above circumstances, this Court does not find any infirmity in the order passed by the Labour Court. Therefore, the present writ petition is devoid of merits and substance. Hence the writ petition is dismissed. No costs.

12. It is submitted that the computed amount has been lying in deposit to the credit of CP in the first respondent-Labour Court. The second respondent-workman is directed to withdraw the amount lying in deposit after approaching the first respondent-Labour Court with the necessary application that regards.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

gsk

To
The Presiding officer,
Principal Labour Court,
Vellore Court,
Vellore District.

+1cc to Mr.S.T.Varadharajulu, Advocate sr.67210

W.P.No.780 of 2013

kj1(co)

ss(25/10/2017)

<https://hcservices.ecourts.gov.in/hcservices/>