

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.45538 of 2006 and MP No.2 of 2006

The Management of S.Pallapatti Primary
Agricultural Co-operative Bank Limited,
S.Pallpatti, Salem/Official Liquidator/
Salem Central District Co-operative Bank Limited,
Salem 1

..Petitioner

Vs

S.Ponmalai (Deceased)

1. Amutha
W/o.Late S.Ponmalai.

2. Mythili (Minor)
D/o.Late S.Ponmalai

3. Manikandan (Minor)
S/o.Late S.Ponmalai

4. Boopathi (Minor),
S/o.Late S.Ponmalai
The Respondents 2 to 4 are Represented
by their natural guardian and Mother Amutha

5. Chinnammal
W/o. Subramani
The Respondents 1 to 5 are residing at
Near Mariamman Koil,
S.Pallipatti, Sukkampatti Via,
Salem District - 636 122

6. The Presiding Officer
Labour Court, Salem

.... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari or any other appropriate writ, order or direction in the nature of a writ, calling for the order of the 6th respondent dated 16.12.2003 and made in I.D.No.24 of 2002 and quash the same and pass such further or other orders.

For Petitioner : Mr.K.Raja for Mr.N.Kulandaivelu
For Respondents : Mr.Nasurallahkhan
for Mr.K.V.Shanmuganathan
for R1 to R4
No appearance for R5
R6 - Labour Court

O R D E R

The award passed in I.D.No.24 of 2002 dated 16.12.2003 is under challenge in this present writ petition. The writ petitioner Management is S.Pallapatti Primary Agricultural Co-operative Bank Limited. The respondent late S.Ponmalai was an employee of the Co-operative Society. The respondent employee was terminated from the service of the Co-operative society and he filed I.D.No.24 of 2002 and the Labour Court, Salem adjudicated the dispute and passed an award on 16.12.2003 in favour of the employee and the exparte award stating that the workmen is entitled for reinstatement and for payment of backwages.

2. Challenging such exparte award, the Management of the Co-operative Society filed the present writ petition on the ground that the Society is under liquidation and the liquidator was appointed and he is in the process of completing the liquidation under the provisions of the Tamil Nadu Co-operative Societies Act. The Society is not functioning and all the employees were already relieved from their respective services. Thus, the question of re-instatement would not arise in respect of the workmen in ID No.24 of 2002 is concerned. It is brought to the notice of this Court that Mr.S.Ponmalai died and the legal heirs of the deceased employee were impleaded in the writ petition. Such impleading petition was allowed on the restricted ground that the benefits to be settled in favour of the legal heirs. Thus, the question of reinstatement deserves no further consideration in respect of the present writ petition.

3.The matter was earlier referred to the Mediation Center and the parties could not be able to arrive at a settlement. Thus, it was posted before this Court for consideration.

4. This Court is of an opinion that the employee was died and therefore, the relief of reinstatement cannot be granted. The society is under the process of liquidation and therefore, immediate settlement of all the backwages and terminal backwages cannot be ordered. Once the society is under liquidation under the provisions of the Tamil Nadu Co-operative Societies Act, the liquidator has to assess the Profit and Loss and take note of all the aspects and settle the debtors and creditors proportionately as per the provisions of the Tamil Nadu Co-operative Societies Act, rules and the guidelines issued by the Registrar of Co-operative Societies Act. Thus, the legal heirs of the deceased employee are entitled to submit their claim before the liquidator of S.Pallapatti Primary Agricultural Co-operative Bank Limited. In the event of submitting their claims before the Liquidator, the Liquidator has to consider the claim made out by the legal heirs of the deceased S.Ponmalai and settle their claim proportionately as per the award passed by the Labour Court, Salem in ID.No.24 of 2002 dated 16.12.2003. However, it is made clear that the Labour Court, Salem cannot proceed with C.P No.371 of 2005, already pending on the file of Labour Court, Salem, filed by the legal heirs of the deceased employee. Thus, the CP proceedings are liable to be closed.

5. With the above direction, this writ petition stands disposed of. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer
Labour Court, Salem

+1cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.80796

+1cc to Mr.N.Kolandaivelu, Advocate, S.R.No.80739

W.P.No.45538 of 2006 and MP No.2 of 2006

KK(CO)
GSP(19/12/2018)