

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.A.No.1772 of 2018
and CMP No.14211 of 2018

The Management,
Rep. by T.N.Venkatesh,
Tamil Nadu Handloom Weavers'
Co-operative Society Ltd., (Co-optex),
350, Pantheon Road, Egmore,
Chennai - 600 008. ... Appellant

versus

1. The Presiding Officer,
II Additional Labour Court, Chennai.

2. The General Secretary,
Co-optex Oozhiyargal Sangam,
No.1/10, 11th Street,
Karunanidhi Nagar,
Ayyanavaram, Chennai - 600 023. ... Respondents

Writ Appeal filed against the order dated 09.06.2017 in
M.P.Nos.1 & 2 of 2015 in W.P.No.24354 of 2015.

M.P.Nos. 1 & 2 of 2015 in WP.NO.24354 of 2015: Petition
praying to i) stay the operation of the order dated 23.1.2015
in I.D.NO.228 of 2012 of the 1st Respondent (MP.1/15);

ii) vacate the interim stay granted on 07/08/2015 in
MP.1/15 in WP.24354 of 2015/15 (M.P.No.2/15) respectively
pending WP.No.24354 of 2015.

WP.No.24354 of 2015: Petition praying to issue a writ of
certiorari after calling for the records relating to the
respondent dated 23.01.2015 in I.D.No.228 of 2012 & quash the
order;

For Appellant : Mr.K.Rangesh

JUDGMENT

(Order of the Court was delivered by S.MANIKUMAR, J.)

General Secretary, Co-optex Oozhiyargal Sangam, 2nd
respondent herein has filed ID No.228 of 2012, seeking for
revised pay to the workmen viz., Viswanathan, Mohan, Murthy

and Balaji, from the date on which they obtained degree till 01.10.2009. Adverting to the said point for consideration, the Presiding Officer, II Additional Labour Court, Chennai, vide order dated 23.01.2015 in ID No.228 of 2012, held that the above workmen are entitled to get increments from the respective dates, on which they obtained requisite degrees. Labour Court further directed the Management, Tamil Nadu Handloom Weavers' Co-operative Society Limited, Chennai, appellant herein to grant increments to the said workmen from the date on which they obtained degrees, and to pay monetary benefits to them.

2. Being aggrieved, Management, Tamil Nadu Handloom Weavers' Co-operative Society Limited, Chennai, has filed WP.No.24354 of 2015. Writ Court, initially, granted interim stay of the award in MP No.1 of 2015 in WP No.24354 of 2015. Thereafter, on the petition filed to vacate stay, viz., M.P.No.2 of 2015, both were taken up together and vide common order dated 09.02.2017 made in M.P.Nos.1 and 2 of 2015 in W.P.No.24354 of 2015, writ Court, made the stay absolute, on condition that the Management, Tamil Nadu Handloom Weavers' Co-operative Society Limited, Chennai, pays a sum of Rs.1,00,000/- in favour of the 2nd respondent, who intturn, would disburse the same, to four of its members, who are entitled to the same. Writ Court further directed that such compliance has to be made within six weeks from the date of receipt of a copy of this order. Writ Court further directed the writ petition, to be posted for final hearing on 13.11.2017.

3. Being aggrieved, Management, Tamil Nadu Handloom Weavers' Co-operative Society Limited, Chennai, has filed the instant writ appeal on the grounds inter alia that the above said four workman did not obtain prior approval of the Regional Office / Head Office concerned and therefore, they are not entitled to the increment.

4. Mr.K.Rangesh, learned counsel for the appellant further submitted that added further, if the said sum of Rs.1,00,000/- is disbursed, it would be difficult to recover from the workmen, who have crossed the age of 50 years. Some of them, nearing the age of retirement. Learned counsel for the appellant further submitted that instead of payment, management, would deposit. Except the above, no other grounds are urged.

5. Admittedly, the Labour Court, has dealt with the issue as to whether the workmen are entitled to the increment for acquiring higher educational qualification. Management, has the benefit of higher educational qualification, acquired by the abovesaid workmen, irrespective of prior permission by the Management or not. Though, before the writ Court, contention has been made that each of the abovesaid four workman are entitled for increment of Rs.50,400/-, by way of an interim

arrangement, writ Court has only directed a sum of Rs.1,00,000/- to be paid, in favour of the 2nd respondent, who in turn would disburse to the workmen stated supra.

6. Contention of the learned counsel for the appellant that if the said amount is paid, then Management would not be in a position to recover, cannot be countenanced, for the reason that the said amount can always be withheld, if required. Respondent No.2, representing Workmen, has succeeded before the Labour Court. Writ petition has been directed to be posted for final hearing on 13.11.2017. Appellant can always make request to the writ Court for early disposal.

7. There is no manifest error in the impugned order and we are not inclined to entertain the writ appeal. Hence, the instant writ appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,
II Additional Labour Court,
Chennai.

2. The General Secretary,
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No.1/10, 11th Street,
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Chennai - 600 023.

+ 1 cc to Mr.K.M. Ramesh, Advocate Sr.56669

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and CMP No.14211 of 2018

SAI (CO)
EU(03/09/2018)