

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.306 of 2016

Selvi

.... Appellant

-vs-

1.The Presiding Officer,
Labour Court, Salem.

2.The Management,
Salem District Consumers Co-operative
Whole Sale Stores Limited,
Seetharaman Road,
Salem -9.

.... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the Order passed in W.P. No.33952 of 2006 dated 26.02.2015. Writ Petition in filed under Article 226 of Constitution of India, praying for the issuance of Writ of Certiorari, the call for the records in C.P.No.465 of 2005 on the file of the Presiding officer, Labour Court, Salem, the first respondent herein, quash the order dated 19/01/2006 passed there in.

For Appellant : Mr.R.M.D.Nazarullah

For Respondents : Mr.M.R.Raghavan

for R2

Mr.L.P.Shanmugasundaram

Spl.Govt.Pleader (Co-op)

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The second respondent filed a writ petition in W.P.No.33952 of 2006 challenging the order dated 19 January 2006 in C.P.No.465 of 2005 on the file of the Labour Court, Salem. By the said order, the Labour Court, Salem, directed the Management to pay a sum of Rs.5 lakhs to the appellant herein under Section 33-C (2) of the Industrial Disputes Act, 1947. The learned single Judge allowed the writ petition by order dated 26

February 2015. Feeling aggrieved, the appellant has come up with this intra court appeal.

2. When this appeal came up for hearing on an earlier occasion, the learned counsel for the appellant by producing a copy of the order in G.O.Ms.No.41 Cooperation, Food and Consumer Protection Department, dated 10 March 1998 submitted that the deceased employee is also entitled to the benefits of the said Government Order.

3. We therefore directed the learned counsel for the second respondent Society to take instructions as to whether payment as per the said Government Order could be given to the appellant. The matter was adjourned time and again at the instance of the second respondent. Finally, the learned counsel for the second respondent submitted that the Government Order would only apply to those who were manning a cadre post and it would not be applicable to the deceased employee, as he was not working in a cadre post.

4. There was an order passed by the competent authority declaring that the employee was entitled to the benefits of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. It is a matter of record that the order passed by the competent authority has become final. Even after the finality arrived to the order directing conferment of permanent status, the second respondent has not taken any action to sanction ex-cadre post to accommodate the employee. In case, any action was taken, the employee would have been entitled to the benefit of the Government Order in G.O.Ms.No.41 Cooperation, Food and Consumer Protection Department. The inaction on the part of the second respondent alone contributed for the further litigations. We therefore summoned the Managing Director-cum-Joint Registrar of the Cooperative Society. The Joint Registrar also took an unreasonable stand, which compelled us to summon the Registrar of Co-operative Societies.

5. When the appeal is taken up for hearing today, Mr.T.Selva Kumaran, Joint Registrar who is also the Managing Director of the Salem District Consumers Co-operative Whole Sale Stores Limited, appeared before us and produced a copy of the proceedings dated 17 July 2018 sanctioning a sum of Rs.11lakh to the appellant in accordance with the Government Order in G.O.Ms.No.41 Cooperation, Food and Consumer Protection Department. Tmt.R.Bindhu, Additional Registrar, Thiru.S.Subramanain, Joint Registrar and Thiru.G.Rajendra Prasad, Joint Registrar of Cooperative Societies are also present before this Court representing the Registrar of Cooperative Societies.

6. In view of the proceedings dated 17 July 2018 and the affidavit of the second respondent dated 18 July 2018, nothing survives for further adjudication in this intra court appeal. We hope and trust that at least henceforth, the officers of this department would not stick to technicalities when it comes to the interpretation of a beneficial piece of Government Order.

7. We direct the second respondent to pay the amount of Rs.1 lakh to the appellant within a period of two weeks from today.

8. The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

svki

To

The Presiding Officer,
Labour Court, Salem.

+1cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.47430.

+1cc to Mr.M.R.Raghavan, Advocate, S.R.No.47429.

W.A.No.306 of 2016

NRL(CO)
BM 06/08/2018

सत्यमेव जयते

WEB COPY