



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) Nos.2673 of 2014 and 7518 of 2016
and

W.M.P (MD) Nos.1 of 2014 and 6300 of 2016

In W.P (MD) No.2673 of 2014

The Management,
Q.308, Perunkarai Primary Agricultural
Co-operative Bank,
Now called as Q.308, Perunkarai Primary Agricultural
Co-operative Credit Society,
Keela Perunkarai,
Paramagudi Taluk,
Ramnad District.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Madurai.

2. R.Alagarsamy

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records from the first respondent's impugned award made in I.D.No.97/2002 dated 24.07.2013 and quash the same.

For Petitioner	: Mr.R.Saravanan
For R2	: Mr.S.M.Mohan Gandhi
For R1	: Court

In W.P (MD) No.7518 of 2016

Alagarsamy

... Petitioner

Vs.

1. The Management,
Q.308, Perunkarai Primary Agricultural
Co-operative Bank,
Now called as Q.308, Perunkarai Primary Agricultural
Co-operative Credit Society,
Keela Perunkarai,
Paramagudi Taluk,
Ramnad District.



2. The Presiding Officer,
Labour Court,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the award of the Labour Court in I.D.No.97 of 2002 dated 24.07.2013 and quash the same in so far as denial of back wages to the petitioner consequently, directing the first respondent management to pay full back wages to the petitioner.

For Petitioner :Mr.S.M.Mohan Gandhi
For R1 :Mr.C.G.Pethanaraj
For R2 :Court

COMMON ORDER

Alagarsamy, the petitioner in W.P.(MD)No.7518 of 2018 was appointed as Peon in Perungana Primary Agricultural Co-operative Society on 03.10.1997. By order dated 27.09.2001, he was dismissed from service. He therefore raised I.D.No.97 of 2002 before the Labour Court, Madurai. The Labour Court, Madurai by award dated 24.07.2013 held that the dismissal passed against him was not justified and that the Management must reinstate the petitioner with continuity of service. 25% of the backwages alone was awarded in favour of the workman.

2.Aggrrieved by the order of reinstatement, the management has filed W.P.(MD)No.2673 of 2014. Aggrrieved by the denial of 75% of the back wages, the workman filed W.P.(MD)No.7518 of 2016.

3.Heard the learned counsel on either side.

4.It is true that the writ petitioner was originally appointed on daily wage basis on 03.10.1997. But then, the writ petitioner came to be formally sponsored by the employment exchange in the year 2001. He attended interview on 05.02.2001 and the management passed a resolution in his favour on 07.02.2001 formally selecting him for the post of Peon. That is why, the Labour Court held that the writ petitioner's appointment cannot be termed as a back door entry. The Labour Court has given a specific finding that the management had merely been taken a stand on the appointment of the Alagarsamy as Peon was irregular but the said stand was never established. Therefore, the Labour Court has rightly held that non-employment and the ultimate dismissal of the Alagarsamy was not justified.

<https://hcservices.ecourts.gov.in/hcservices/> 5. Considering the facts and circumstances of the case and considering the fact that the Management is only a co-operative



society, the Labour Court chose to grant only 25 % of the back wages. As the decision of the Labour Court is equitable in nature, this Court is not inclined to interfere with the award of the Labour Court.

6. In the result, both the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Labour Court, Madurai.

+1cc to Mr.R.Saravanan Advocate Sr.No.57689

+1cc to Mr.S.M.Mohan Gandhi, Advocate Sr.No.57745

RMI

VB/SV/MMS/SAR4/07/06/2018/3P/4C

W.P. (MD) Nos.2673 of 2014 and 7518 of 2016
and

W.M.P (MD) Nos.1 of 2014 and 6300 of 2016
23.03.2018