



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.18918 of 2017
and
WMP (MD) No.15254 of 2017

P.Kamaraj

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Buildings,
Trichy.

2.The Management,
DP2 Periyakottai Primary
Agricultural Cooperative
Credit Society Ltd,
Periyakottai Post, Chatrapatti(via),
Oddanchatram Taluk,
Dindigul District - 624 614.

... Respondents

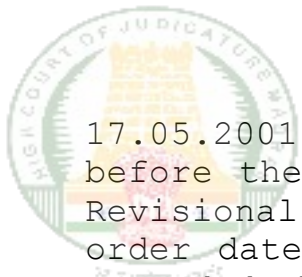
Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order dated 13.07.2017 passed by the Labour Court, Trichirappalli (Camp at Dindigul) in C.P.No.87/2016 and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondents : Mrs.S.Srimathy,
Special Govt.Pleader for R1
Mr.S.Arivalagan for R2

ORDER

Heard the learned counsel on either side.

2.The second respondent is a registered Cooperative Society.
<https://hcservices.ecourts.gov.in/hcservices/>
Alleging that the petitioner herein had committed an act of delinquency, he was removed from service by order dated



17.05.2001. The same was questioned by filing a revision petition before the Joint Registrar, Cooperative Societies, Dindigul. The Revisional Authority by order dated 28.06.2013 set aside the order dated 17.05.2001 dismissing the petitioner from service and remanded the matter to the second respondent society.

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3. Following the said order of remand, fresh enquiry was conducted and after complying with the usual procedure, the second respondent society passed the order dated 19.08.2013 directing the petitioner's reinstatement. The order of reinstatement also stated that the petitioner will be levied with the punishment of stoppage of increment for two years without cumulative effect. It was also stated that the petitioner will be entitled to be continuity of service, but he will be reinstated without the benefit of back-wages. Even though the order dated 19.08.2013 categorically affirms that the petitioner will not be entitled to back-wages, the petitioner filed CP.No.87 of 2016 before the Labour Court, Trichy (Dindigul Camp) claiming back-wages for the said period. The Labour Court by order dated 13.07.2017 dismissed the claim petition. The same is assailed in this writ petition.

4. It is well settled that the petition filed under Section 33 C(2) of the Industrial Disputes Act, 1947 is in the nature of the execution proceedings. The claimant must have a pre-existing right to enforce. In this case, the order dated 19.08.2013 denies the benefit of back-wages. Therefore, he had no right to enforce. If he wanted the benefit of back-wages, he ought to have filed a revision against the order dated 19.08.2013 in so far as the claim of back-wages was denied.

5. In the absence of challenge to the order dated 19.08.2013, the petitioner could not have maintained CP.No.87 of 2016. The order impugned in the writ petition is sustained. There is no merit in this writ petition. However, it is made clear that it is open to the petitioner to question the order dated 19.08.2013 in the manner known to law. If such a revision petition is filed by the petitioner, the same shall be taken on file by the Revisional Authority and the period taken in prosecuting the claim petition as well as this writ petition will be excluded.

6. With this liberty, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/
Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar



To

The Presiding Officer, Labour Court,
District Court Buildings,
Trichy.

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+1cc to Mr.V.O.S.KALAISELVAM, Advocate, SR.No.52679

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