



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 8497 of 2017

A.John Thomas

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The President,
Y-96, Vellicode Primary Agricultural
Co-operative Credit Society,
Mulagumoodu Post,
Veeyanoor Village,
Kalkulam Taluk,
Kanyakumari District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to impugned award dated 18.11.16 passed by the first respondent in C.P.No.132 of 2016 and quash the same as illegal and consequently direct the second respondent to pay a sum of Rs.62,061/- to the petitioner with a period that may be stipulated by this Court

For petitioner	: Mr. C.R.Nimal
For R-2	: Mr. Titus
R-1	: Labour Court

O R D E R

The petitioner was employed as Sales Assistant in the second respondent Society. He reached the age of superannuation on 28.02.2015. While disbursing the retirement benefits payable to the petitioner herein, the second respondent withheld a sum of Rs.62,061/-. The said recovery was made based on an audit objection. Contending that the said amount should be paid to him, the petitioner herein filed C.P.No.132 of 2016. The said Claim Petition was dismissed by the Labour Court. The same is assailed in this writ

2. Heard the learned Counsel on either side.



3. An order of deduction or recovery has civil consequences. In this case a sum of Rs.62,061/- was deducted from the petitioner's retiral benefits. The Management has only taken a stand that it took recourse to such a recovery based on an audit objection. Even before the Labour Court what is marked on the side of the Management is only an order passed by this Court and an audit report. The issue is whether the recovery is right or wrong. The issue is whether the recovery was made illegally. It is not the case of the Management, that the order of recovery was passed before the petitioner retired from service. Once the petitioner retired from service, the employer/employee relationship gets snapped. Therefore, it would not be open to the second respondent to pass any order of recovery thereafter. In this case no procedure has been adopted. There has been no compliance with the principles of natural justice. Therefore, this Court has to necessarily come to the conclusion that the said sum was illegally recovered from the petitioner. The Labour Court failed to take note of this aspect.

4. In this view of the matter, the order impugned in the writ petition is quashed. The second respondent is directed to pay a sum of Rs.62,061/- to the petitioner within a period of eight weeks from today.

5. This Writ Petition is allowed accordingly. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,
Tirunelveli.

+1cc to M/S.V.H.S.PRATHAP, Advocate SR.No.49925.

ORDER MADE IN
W.P. (MD) .No.8497 of 2017
20.02.2018

kmi

SDS/SV:MMS/SAR 4/26.02.2018/2P/3C

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