



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.9212 and 9246 of 2017

and

W.M.P(MD)Nos.7025 and 6999 of 2017

Y.92, Manavalakurichi Primary Agricultural
Co-operative Credit Society,
rep. by its The President
C.Krishnan
S/o Chellaiya
Vadakanpagam, Manavalakurichy Post,
Kanyakumari District.

... Petitioner in both petitions

Vs.

1.C.Sathiyanesan

2.The Presiding Officer,
Labour Court,
Tirunelveli District.

... Respondents in WP(MD)No.9212 of 2017

1.C.Sathiyanesan

2.The Inspector of Labour,
Nagercoil,
Kanyakumari District.

... Respondents in W.P(MD)No.9246 of 2017

PRAYER in W.P(MD)No.9212 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the second respondent in award passed in I.D.No.15 of 2016 dated 27.06.2016 and quash the same.

PRAYER in W.P(MD)No.9246 of 2017: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the second respondent in his proceedings in Na.Ka.No.398 of 2015, dated 24.08.2015 and quash the same.

In both petitions:-

For Petitioner : Mr.T.Arul (in both WPs)

For Respondents : Mr.M.E.Ilango for R1 (in both WPs)
R-2 Court in WP(MD)No.9212/2017

Mr.S.Srimathy,
Special Government Pleader for R2 in
W.P(MD)No.9246 of 2017

COMMON ORDER



of Labour conferring the status of permanency on the first respondent.

2.It is seen that the first respondent was not appointed by following proper procedure. He is obviously a back door entrant. There is nothing on record to show that the bye laws of the society in the matter of appointment were followed in this case. Therefore, in such circumstances, a Full Bench of this Court in Radha Krishnan Vs. The Deputy Registrar of Co-operative Societies reported in 2007 (5) CTC 369 has held that the Permanency Act of 1981 will not apply in the case of co-operative society.

3.The first respondent on the strength of the order passed by the Inspector of Labour conferring permanency on him raised I.D.No.15 of 2016 before the Labour Court, Tirunelveli. The Labour Court, Tirunelveli allowed the Industrial Dispute and directed his reinstatement. This Court sets aside the order passed by the Inspector of Labour. Therefore, the award impugned in W.P(MD) No.9246 of 2017 will also have to go automatically. But then the learned counsel appearing for the workman submitted that even a causal workman is entitled to protection afforded in the I.D Act. Inasmuch as, the Labour Court has in this case allowed I.D.No.15 of 2016 more as the consequence of the order passed by the Inspector of Labour and since the order dated 24.08.2015 has been set aside in W.P(MD)No.9246 of 2017, the matter has to be remitted to the file of the Labour Court, Tirunelveli for deciding the matter afresh in accordance with law. The award dated 27.06.2016 in I.D.No.15 of 2016 on the file of Labour Court, Tirunelveli is quashed and the matter is remitted to the file of the Labour Court, Tirunelveli. The Labour Court, Tirunelveli is directed to conclude the proceedings within a period of six months from the date of receipt of a copy of this order.

4.With the above directions, both the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar

To

1 The Presiding Officer, Labour Court, Tirunelveli District.

2 The Inspector of Labour, Nagercoil, Kanyakumari District.

+2CC to Mr.M.E.Ilango, Advocate, SR.No. 58360 and 58361

+1CC to the Special Government Pleader SR.No.58938

W.P. (MD) Nos.9212 and 9246 of 2017

and

W.M.P (MD) Nos.7025 and 6999 of 2017