

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.09.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.19905 of 2004

R.Rajkumar

..Petitioner

vs

1.The Presiding Officer,
Labour Court,
Madurai.

2.The Management,
Madurai District Central
Co-operative Bank Ltd.,
187, North Veli Street,
Madurai.

..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, relating to the award passed against the petitioner by the 1st Respondent in I.D.No.80/91 dated 31.08.1999 and quash the same and to direct the Respondents to reinstate the petitioner in service with backwages continuity of service and other attendant benefits.

For Petitioner : Mr.K.L.Sekar

For Respondents : R1 - Labour Court

Mr.S.Silambanan,
Senior counsel

For Mr.N.Umapathy for R2

O R D E R

The Award dated 31.08.1999 passed by the 1st respondent in I.D.No.80/91 is under challenge in the present writ petition.

2. The writ petitioner states that he was appointed as a Messenger in the 2nd respondent Cooperative Bank at Nagamalai, Pudukottai Branch as temporary employee and was getting a salary of Rs.15/- per day.

3. It is an admitted fact that the writ petitioner was engaged as a temporary daily rated employees on need basis. The petitioner states that he completed 240 days of service. In spite of that the benefit of permanent absorption was not granted and he was subsequently terminated from services orally on 25.08.1990. Thus, the petitioner raised an Industrial Dispute under Section 2-A (2) of the Industrial Disputes Act[hereinafter referred to as ID Act] in I.D.No.80 of 1991. The Labour Court rejected the claim of the writ petitioner and challenging the said award, the present writ petition is filed.

4. The learned counsel for the writ petitioner states that though the writ petitioner was engaged on temporary basis, he continued in services for more than 240 days. Thus, the award of the Labour Court is liable to be scrapped.

5. Per contra, the learned Senior counsel appearing on behalf of the 2nd respondent Management disputed the contentions by stating that the writ petitioner was engaged as a temporary employee on daily wage basis and he has not completed 240 days of service so as to grant the benefit of Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. This apart, the 2nd respondent Management is a Cooperative Bank, which is a Society registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983. The service conditions of the employees of the Cooperative societies are governed under Rule 149 of the Tamil Nadu Cooperative Societies Rules 1988. Thus, the service conditions are stipulated under Rule 149 and under the Special By-laws, which all are approved by the Registrar of Cooperative Societies. This being the statute and the Rules, appointments are to be made strictly in accordance with Rule 149 read with the

Special By-laws, if any, which is approved by the Registrar of Cooperative Societies.

6. Admittedly, the writ petitioner was not engaged or appointed through the District Employment Exchange concerned. Thus, his appointment was irregular.

7. In respect of the irregular appointments made in the Cooperative Societies registered under the Tamil Nadu Cooperative Societies Act, 1983 across the State of Tamil Nadu, the Hon'ble Division Bench of this Court in the case of L. Justine and another Vs. The Registrar of Co-operative Societies, Chennai - 10, reported in 2003 (1) LLJ 284 and 2002 (4) CTC 385, which was upheld by the Apex Court of India in the case of A. Umarani V. Registrar of Cooperative Societies, reported in (2005) 1 MLJ 6(SC), held that such irregular appointments can be regularized only if the appointments were made through the District Employment Exchange concerned and subject to the fulfillment of the educational qualifications and other criteria fixed by the competent authorities.

8. This being the legal principles settled by the Hon'ble Division Bench, which was confirmed by the Apex Court, the initial engagement of the writ petitioner as temporary employee cannot be a ground to claim permanent status or observation in violation of Rule 149 of the Tamil Nadu Cooperative Societies Rules as well as the legal principles settled by the Constitutional Courts.

9. As far as the present writ petition is concerned, the Labour Court also made a finding that the writ petitioner has not established that he has completed 240 days of service. In other words, it has held that the petitioner has failed to prove that he has completed more than 240 days of service in a year. Thereafter, the writ petitioner admitted himself a fact that he was not appointed in a regular employment, which was considered by the Labour Court.

10. This being the factum, the Award of the Labour Court is in consonance with the provisions of the Tamil Nadu Cooperative Societies Rules as well as the decision of the Hon'ble Division Bench, which was confirmed by the Hon'ble Supreme Court. In view of the fact that there is no perversity or illegality in the findings of the Labour Court order, this Court is not inclined to interfere with the Award.

11. Accordingly, the Award dated 31.08.1999 passed in I.D.No.80 of 1991 is confirmed and consequently, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Labour Court,
Madurai.

+1cc to M/s.Kaavya , Advocate SR.No. 79561

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A.SK(17/10/2019)

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