

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.08.2019
CORAM
THE HONOURABLE MR JUSTICE S. VAIDYANATHAN

W.P.No.4342 of 2013

The Management
Jeeva Transport Corporation
Employees Co-operative Stores Ltd.,
C.II Sampath Nagar
Erode
Erode District .. Petitioner

--Vs--

1.The Presiding Officer
Labour Court
Salem
2.M.Subramanyam ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorari calling for the records in I.D.No.46 of 1997 on the file of the Labour Court, Salem the first respondent herein and quash the award dated 23.08.2012.

For Petitioner : Mr.M.R.Raghavan
For Respondents : Ms.Selvi George for R2

O R D E R

The Management has come forward challenging the award of the Labour Court passed in I.D.No.46 of 1997 dated 20.10.2003.

2. The only issue before this Court is that, whether the employee having suffered an order under section 153 of the Co-Operative Societies Act, 1953, challenging the punishment order, would be entitled to reagitate the same before the Labour Court by raising a dispute.

3. As long as there is no finality attained in challenging the order, the employee is entitled to maintain parallel proceedings one under the Industrial Disputes Act and one under the Co-Operative Societies Act and the Management cannot take a plea that an employee having raised a dispute cannot pursue the

remedy under the Co-Operative Societies Act or vice versa, but once there is a finality in one of the proceedings, the other proceeding shall automatically stand concluded and even if it is not filed simultaneously, the subsequent proceedings, under any other enactment is barred. The only remedy is to challenge the order of the Authority or the Labour Court before this Court.

4. Though it has been vehemently contended that this plea has not been raised by the Management, the Management has filed an additional counter dated 16.12.1997 wherein there is a categorical averment in paragraph three that the order of dismissal has been confirmed by the Revisional Authority and the Review has also been gone against the workman so the Labour Court will have no jurisdiction to entertain the dispute.

5. The Apex Court in the case of Nirchiliya and Others Vs. Management of Safire Theater, Madras and Another reported in [(1991) 1 LLJ 111], the Apex Court has held as follows:

2. We are of the view that once remedy could be worked out in either of the forums, when the proceeding before the Labour Court was not continued, in the absence of any specific bar under either the Madras Act or the Industrial Disputes Act against the alternative forum being moved, the jurisdiction of the authority under the Madras Act would not be barred. In the facts and circumstances appearing on the record, we are of the view that the High Court went wrong in holding that there was a lack of jurisdiction in the competent authority under the Madras Act to entertain the dispute. The decision of the High Court is accordingly set aside and the order of the competent authority under the Madras Act is restored.

6. In view of the decision of the Apex Court, when one proceeding has reached the conclusion, the subsequent proceeding under that enactment is barred.

7. Hence, I am of the view that the Labour Court has no jurisdiction to entertain the Industrial Dispute as the petitioner suffered an order before the Authority under the Co-operative Society.

8. Though the employee is not entitled to any amount, Mr.M.R.Raghavan, learned counsel for the petitioner would submit that on humanitarian grounds the society is ready to extend a sum of Rs.2 lakhs to the employee payable in six (6) installments.

9. In case the petitioner challenge the order of the Co-Operative Society, the same would be considered on merits, and the delay, during which the matter is pending before this Court, shall not be put against the petitioner. The second respondent must make up his mind whether to contest the issue or not. If the amount of Rs.2,00,000/- (Rupees Two Lakhs only) is remitted and encashed, he cannot challenge the order of the Authority passed under Co-operative Societies Act. This Court will not entertain the plea that the amount has been received under protest.

10. Accordingly, this Writ Petition stands disposed of. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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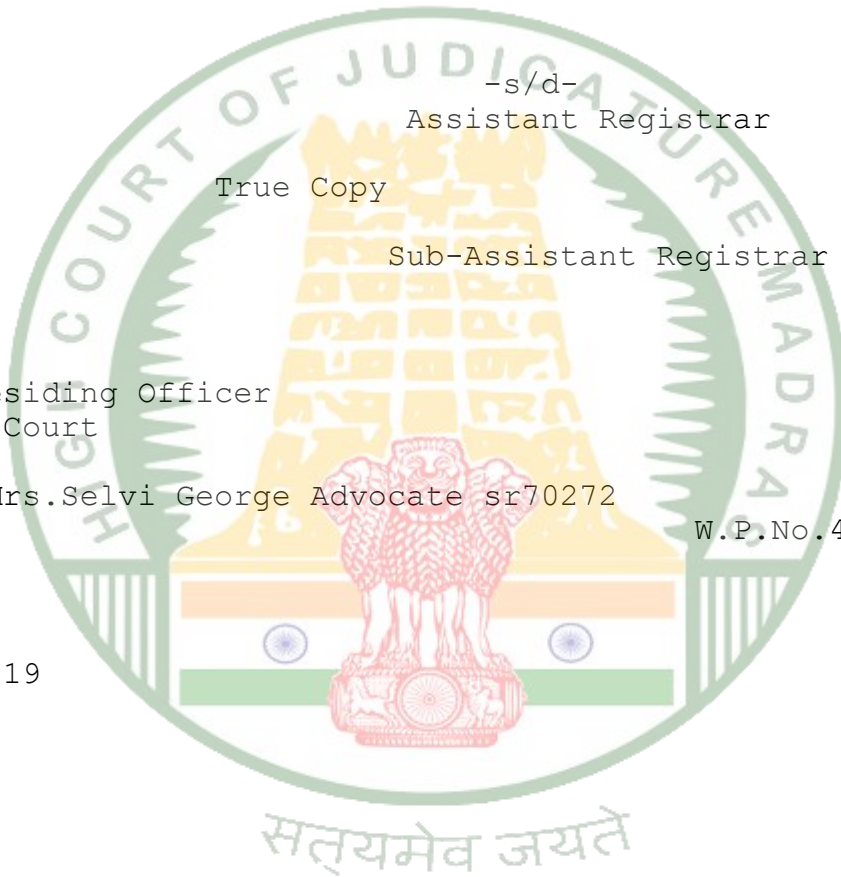
To

The Presiding Officer
Labour Court
Salem

+1 cc to Mrs.Selvi George Advocate sr70272

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