

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.11.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 4472 of 2014

M. Ravi

.. Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem District.

2. The Management of S.527,
Kelamangalam
Agricultural Producers' Co-op.
Marketing Society Ltd., Rep. By its President,
Kelamangalam, Denkanikottai Taluk,
Krishnagiri District.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in I.D.No.180/2002 dated 29.02.2008 and the subsequent order in I.A.No.250/2012 in I.D.No.180/2002 passed by the 1st respondent herein and quash the same and consequently direct the 1st respondent to restore the I.D.No.180/2002 on the file of the Labour Court, Salem.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : R1- Labour Court

Mr.M.S.Palaniswamy [R2]

ORDER

The ex-parte award dated 29.02.2008 passed in I.D.No.180 of 2002 as well as the order passed in interlocutory application filed in I.A.No.250 of 2012 in I.D.No.180 of 2002 are under challenge in the present writ petition.

2. The petitioner states that he was appointed in the second respondent Co-operative Society as a salesman on 01.10.1997 and subsequently, on 04.05.2001, the Labour Inspector recommended the case of the writ petitioner for grant of permanent status. The grievances of the writ petitioner is that he was not granted the benefit of regularisation and permanent absorption.

Contrarily, the Management terminated his services. He raised an Industrial Dispute challenging the non-employment and the Labour Court passed an ex-parte award dismissing the Industrial Dispute for default. The reasons stated in the award is that the writ petitioner filed petition under Section 2A(2) of Industrial Disputes Act to declare the order of the respondent dated 06.06.2001 as illegal and to reinstate him in service with continuity of service. The writ petitioner (P.W.1) was continuously absent for several hearings and accordingly, the Industrial Dispute was dismissed for default. Thereafter, the writ petitioner filed an application to set aside the ex-parte award and along with the petition, he filed another interlocutory application to condone the delay of 1738 days in filing the petition to set aside the ex-parte award.

3. The ex-parte award was passed on 29.02.2008 and the application to set aside the ex-parte award was filed in the year 2012. There was an enormous delay in filing the petition to set aside the ex-parte award. The delay was 1738 days. The Labour Court considered the grounds raised in the interlocutory application and dismissed the application on 29.07.2012 on the ground that the writ petitioner has not established any acceptable reason for the purpose of condoning such a huge delay of 1738 days. The findings of the Labour Court reveals that in the absence of any valid reason, such a long delay cannot be condoned.

4. The learned counsel appearing on behalf of the respondent contented that apart from the huge delay, the case of the writ petitioner was that he was an illegal appointee appointed by the Management of a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act. In respect of irregular and illegal appointment in the Co-operative Societies, the Hon'ble Division Bench of this Court delivered a judgment in the case of L.Justine and anr. Vs. The Registrar of Co-operative Societies [reported in 2002 (4) CTC 385]. As per the judgment of the Hon'ble Division Bench all such irregularity and illegality were reconsidered by the Registrar of Co-operative Societies and the eligible persons were granted with the benefit of permanent absorption. As far as the ineligible persons are concerned, the benefit of regularization is denied to those appointees. The case of the writ petitioner was not considered for regularization as he was found not eligible. The judgment of the Division Bench was confirmed by the Hon'ble Supreme Court of India in the case of Umarani Vs. Registrar, Co-operative Societies [Reported in 2004 (7) SCC 112]. Even as per the judgment of the Division Bench of this Court and the Hon'ble Supreme Court, the irregular and illegal appointees are not

entitled for regularisation if they are otherwise eligible with reference to the terms and conditions stipulated in the judgment of the Hon'ble Division Bench of this Court. Once the issues in relation to grant of regularization was decided by the Division Bench of this Court as far as Co-operative Societies are concerned, the petitioner cannot again adjudicate the issue before the Labour Court, even, if the petitioner wants to avail the benefit of the judgment, if he is of the opinion that he is otherwise eligible under the provisions of the Tamil Nadu Co-operative Societies Act for redressal his grievance. Contrarily, he cannot raise an Industrial Dispute with reference to the judgment already delivered in the matter of grant of regularization to the irregular and illegal appointees of the Co-operative Societies registered under the provisions of the Tamil Nadu Co-operative Societies Act. However, the Labour Court dismissed the petition to condone the delay on the ground that the petitioner has not established any valid reason.

5. Under these circumstances, this Court do not find any other grounds so as to consider the case of the writ petitioner. This being the factum, the order of the Labour Court is not in consonance with the principle and there is no infirmity or perversity as such.

Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court, Salem District.

+1 cc to M/s.N.S.Palani Swamy,Advocate Sr.No. 91220

+1 cc to M/s.T.Sundaravadanam, Advocate Sr.No.91204

AKM/04.12.19/3P-4C /

W.P.No.4472 of 2014