

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.22603 of 2014

K.Nagalingam

... Petitioner

vs.

1. The Presiding Officer,
Labour Court,
Cuddalore.
 2. The Special Officer/President,
Kodampuliyur Primary Agricultural Bank Ltd.,
Kodampuliyur Post,
Panruti Taluk,
Cuddalore District.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified mandamus, to call for the records of the 1st Respondent/Labour Court relating to order dated 01.08.2007 in I.A.No.72 of 2007 in I.D.No.87 of 2003 (2) Award dated 01.08.2007 in I.D.No.87 of 2003 passed by the 1st Respondent and quash the same and direct the 1st Respondent to decide the I.D. on merits and in accordance with law within a fixed time limit.

For Petitioner : Mr.K.Govindaraj

For 2nd Respondent : Mr.M.S.Palaniswamy

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the order dated 01.08.2007 passed by the 1st Respondent in I.A.No.72 of 2007 in I.D.No.87 of 2003 and the Award dated 01.08.2007 passed by the 1st Respondent in I.D.No.87 of 2003 and for a consequential direction to the 1st Respondent to decide the Industrial Dispute on merits and in accordance with law.

2. According to the Petitioner, he joined the services of Kadampuliyur Primary Agricultural Co-operative Bank Ltd., Kadampuliyur, Panruti Taluk, Cuddalore District on 17.05.1977 as

Secretary. While so, he was placed under suspension on 15.12.1998 by the then President of the Co-operative Society. Thereafter, a Charge memo was issued to him on 24.02.1999 and the Petitioner submitted his explanation to the charges within 15 days.

3. It is the case of the Petitioner that the enquiry conducted by the Enquiry Officer was in favour of the Management and he submitted his report dated 20.04.2000 rendering perverse findings that the charges have been proved. A Show Cause Notice was issued to the Petitioner and he submitted his reply dated 07.04.2001. Though no order was passed, subsequently, the Special Officer of the Society issued another Show Cause Notice dated 03.07.2002. To the said Show Cause Notice, the Petitioner reiterated his earlier reply and also prayed for fresh enquiry. But, without considering his contentions, the Special Officer of the Society passed final order dated 22.08.2002, removing the Petitioner from service. Aggrieved by the same, the Petitioner raised an Industrial Dispute before the Labour Court, Cuddalore in I.D.No.87 of 2003, praying for an Award to set aside the order of removal and for reinstatement, with backwages, continuity of service, etc.

4. The Labour Court took up the issue of maintainability of the Industrial Dispute in I.A.No.72 of 2007 in I.D.No.87 of 2003 and passed an order dated 01.08.2007, thereby holding that the Petitioner was not a 'Workman' under Section 2(S) of the I.D. Act and that the Industrial Disputes Act is not maintainable, and by a separate Award dated 01.08.2007, I.D.No.87 of 2003 was dismissed. Challenging the same, the Petitioner is before this Court by way of the present Writ Petition.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Admittedly, the Petitioner was working as a Secretary in Kadampuliyur Primary Agricultural Co-operative Bank Ltd., Kadampuliyur, Panruti Taluk, Cuddalore District, having supervisory power and the Labour Court has rightly held that he is not a 'Workman'. Also, the contention of the Petitioner that he did not have any managerial powers was disbelieved by the Labour Court.

7. When the matter was taken up last, this Court posed a question to the learned counsel appearing for the 2nd Respondent/Management as to why compensation should not be paid to the Petitioner, in view of the fact that he had not been paid Subsistence Allowance.

8. Today, learned counsel appearing for the 2nd Respondent/Management produced the records to show that Subsistence Allowance was paid to the Petitioner from the date of his suspension, i.e. from 15.12.1998 till 22.01.2001, i.e. the date on which he was dismissed from service.

9. Since the Petitioner is not a 'Workman', this Court cannot re-appreciate the findings of the Labour Court and come to a different conclusion. Hence, the Award passed by the Labour Court is sustained. If the Petitioner has any grievance, it is open to him to approach the authority under the Co-operative Societies Act and the period during which the matter was pending in various Court proceedings could be excluded for the purpose of limitation in filing. However, the authority under the Co-operative Societies Act shall look into as to whether there is any delay or not, excluding the aforesaid time limit, and thereafter proceed with the matter on merits.

In fine, this Writ Petition is dismissed with the above observation. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Presiding Officer,
Labour Court, Cuddalore.

+1cc to Mr.K.Govindraj, Advocate, S.R.No. 63097
+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No. 62467
+1cc to Mr.M.Kaviveerappan, Advocate, S.R.No. 62307

GP(CO)
GN(09/10/2019)

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