

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.10.2019

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

W.P.No.27635 of 2014

and M.P.Nos. 1 & 2 of 2014

The President,
Arumanthai Primary Agricultural
Co-operative Bank Limited,
Budur P.O (Via),
Sholavaram,
Chennai - 600 067.

.. Petitioner

Vs.

1. V. Kannappan

2. The Presiding Officer/District Judge,
I Additional Labour,
High Court Campus,
Chennai - 600 104.

... Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for all the records of ex-parte award of the 2nd respondent herein dated 11.11.2008 pertaining to I.D.No.2 of 2007 and order dated 10.07.2014 passed in I.A.No.19 of 2012 in I.A.No.285 of 2009 and I.A.No.21 of 2012 in I.A.No. 286 of 2009 in I.D.No.2 of 2007 and quash the same.

For Petitioner : Mr.N.Nithianandam

For Respondents : Mr.P.Solomon [R1]

R2 - Labour Court

O R D E R

The ex-parte award dated 11.11.2008 pertaining to I.D.No.2 of 2007 and order dated 10.07.2014 passed in I.A.No.19 of 2012 in I.A.No.285 of 2009 and I.A.No.21 of 2012 in I.A.No. 286 of 2009 in I.D.No.2 of 2007 are sought to be quashed in the present writ petition.

2. The petitioner is a Co-operative Bank registered under the provisions of the Tamil Nadu Co-operative Societies Act. The first respondent was employed in the writ petitioner Co-operative Bank and he was terminated from service on account of misappropriation of the funds of the writ petitioner Co-operative Bank Limited. The learned counsel for the first respondent states that it is not a misappropriation and only the deficit. However, the merits and demerits are to be adjudicated with reference to the documents as well as the evidences to be produced. The fact remains that the impugned order is an ex-parte award, the writ petitioner filed a petition to set aside the ex-parte award and thereafter an interlocutory applications to condone the delay was also filed. These Interlocutory applications were dismissed by the Labour Court and consequently, the petitioner is constraint to file the present writ petition.

3. This Court is of the considered opinion that the Industrial Disputes are to be decided on merits and in accordance with law. Undoubtedly, in the present case, there was a lapse on the part of the writ petitioner in pursuing the Industrial Dispute before the Labour Court concerned. The writ petitioner, being a Co-operative Society and in the event of executing ex-parte award, the financial implications would be affected. This Court is of the considered opinion that an opportunity must be provided to the writ petitioner to agitate the issue on merits.

4. This Court has to consider the fact that on account of lapse committed by the writ petitioner in pursuing the Industrial Dispute raised by the first respondent, the first respondent also made to suffer. Under these circumstances, this Court has to impose some costs in respect of lapse and negligence committed by the writ petitioner in pursuing the Industrial Dispute before the Labour Court. The first respondent, being a workmen, has to pay the legal fees to the counsel, who is appearing and in the event of prolongation of the issue, the workmen will suffer and therefore it is a fit case, where the cost should be awarded against the writ petitioner. Equally, this Court cannot encourage the ex-parte award to be executed, which will affect the financial condition of the writ petitioner Bank, which is a Co-operative Society administrated by the Elected Board and the members of the Society.

5. Under these circumstances, this Court is inclined to allow the writ petition. Accordingly, the ex-parte award passed by the second respondent dated 11.11.2008 pertaining to I.D.No.

2 of 2007 and order dated 10.07.2014 passed in I.A.No.19 of 2012 in I.A.No.285 of 2009 and I.A.No.21 of 2012 in I.A.No.286 of 2009 in I.D.No.2 of 2007 are quashed and the second respondent/II Additional Labour Court is directed to restore the Industrial Dispute on file and adjudicate the same on merits and in accordance with law by affording an opportunity to all the parties concerned and dispose of the same as expeditiously as possible.

6. The writ petitioner as well as the first respondent are directed to cooperate for the early disposal of the Industrial Dispute and no adjournment can be granted without any valid reason. Even in case of adjournment, the Labour Court should record the reason for the adjournment and respective parties are bound to proceed with the case without any unnecessary adjournments.

7. The writ petitioner/Management is directed to pay a sum of Rs.10,000/- towards cost on account of prolongation of the Industrial Dispute. The said amount of Rs.10,000/- is directed to be paid to Mr.P.Solomon, learned counsel for first respondent, who is appearing for the workmen both before the Labour Court as well as before this Court within a period of four(4) weeks from the date of receipt of a copy of this order. In the event of non-payment of the cost to the first respondent, the writ petition itself stands dismissed automatically.

With the above observations, the writ petition stands allowed with costs. Connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

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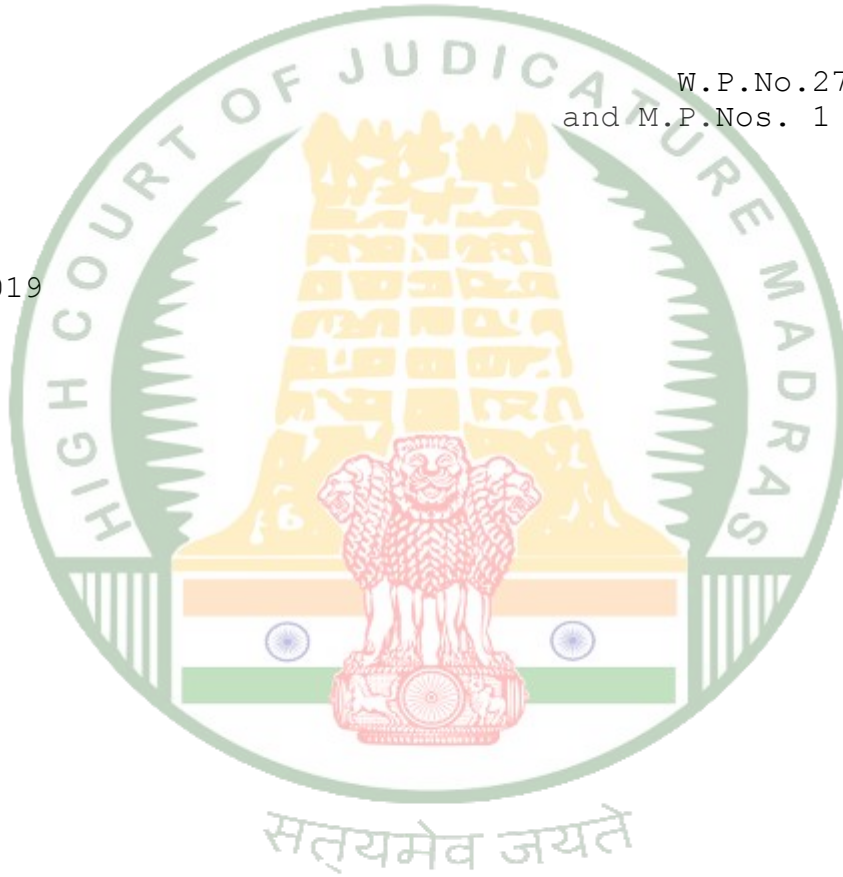
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+1 cc to Mr.P.Solomon Advocate sr90497
+1 cc to Mr.N.Nithianandam Advocate sr90025

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