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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.35437 OF 2004

AND

MP.NO.42701 OF 2004

The Management of Chengalvarayan
Co-operative Sugar Mills,
Rep.by its Administrator,
Periyasevalai 607 209
Villupuram District.

... Petitioner

..Vs..

1. The Chengalvarayan Co-operative Sugar Mills
Employees Union
Rep.by its Secretary,
Chengalvarayan Nagar,
Villupuram District,
Periyasevalai 607 209.
2. The Presiding Officer
Labour Court, Cuddalore.

... Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the second respondent which culminated with the passing of the impugned award dated 04.12.2003 made in I.D.No.78 of 2000 and quash the same in so far as the grant of award of higher scale of pay as Clerk (Seasonal) to V.Udayakumar with effect from 03.10.1994.



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For Petitioner : M/s.G.Thilakavathi
Senior Counsel for
Mr.R.Gopinath

For Respondents : No appearance for R1

ORDER

The present writ petition has been filed by the Management, seeking to quash the Award dated 04.12.2003 made in I.D.No.78 of 2000, in so far as it related to the grant of Award of higher scale of pay as Clerk (Seasonal) to V.Udayakumar with effect from 03.10.1994.

2. The case of the petitioner Management is that V.Udayakumar was recruited as a Seasonal Workman under the petitioner Sugar Mill as a bag stitching machine operator from 30.09.1981. Thereafter he was brought into the regular workman category of Bag stitching machine operator from 01.12.1992. On declaration of the probation in the post of Junior Clerk (seasonal) Clerical Grade - IV the incumbent was put on a regular scale of pay and was granted the benefit of an increment from 1997. However while verifying the service records of the employees of the Sugar Mill it came to the notice of the Management that the said incumbent V.Udayakumar had been erroneously confirmed in contrary to the prescribed qualifications determined for the post of Clerk (Seasonal) as per the proceedings of the Sugar Mill dated 20.08.1993 made in Na.Ka.No.10875/93/E1, the circular by which the Management had called for application from eligible candidates for the post of Clerk (Seasonal) in clerical grade IV from and out of the employees working in the Sugar Mill, V.Udayakumar who was then working as a Bag stitching machine operator made an application pursuant to the circular dated 20.08.1993 which had categorically placed on record the qualification for the post of Clerk (Seasonal). It is relevant to submit that in terms of the directives of the Commissioner of Sugar dated 17.11.1997 the petitioner Management by an independent order dated 23.12.1997 placed on record that the probation of the incumbent could be declared only subject to the required requisite qualifications as contained in the circular dated 20.08.1993 yearly increment



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to the said post could also be granted subject to compliance of the said requisites. While so, the incumbent without choosing to challenge the said order dated 23.12.1997 made in Na.Ka.No.1966/92/E2 or the consequential order of this petitioner as an employer dated 31.07.1999 made in Na.Ka.No.1966/91/E1 had chosen to raise a dispute thorough the Union which was referred for conciliation before the Labour Officer, Cuddalore and on account of the failure report submitted by the said conciliation officer dated 18.01.2000 the same was required to be adjudicated by the second respondent vide G.O.Ms.(D).No.236 dated 22.03.2000. when administrative lapses were rectified on verification of records by following the due procedure contemplated in that regard the findings of the second respondent that the educational requirement as contemplated in the circular dated 20.08.1993 of the Management exhibit (1) ought to be construed as an alternative qualification alone, is a thorough misconception on the part of the second respondent while adjudicating the dispute, whereupon the second respondent proceeded to hold that the incumbent having substantial qualification by completing the SSLC qualification ought not to have been disturbed by the orders of the Management dated 31.07.1999 more particularly Management exhibit 12. When admittedly the incumbent V.Udayakumar who had passed did not have the additional qualification of Co-operative trainee and towards which the order dated 31.07.1999 came to be made the consideration reflected by the second respondent while comparing the eligibility of the other candidates is a misinterpretation/misreading of the provisions of the bye-laws in the matter of qualifications of the candidate to be recruited and once the same is a condition essentially required to be satisfied, the error which crept up in the matter of declaring the probation was rectified in the earliest point of time by the Management and only under such circumstances by due process the ultimate order dated 31.07.1999 came to be made.

2. Heard the learned counsel for the petitioner. There is no representation on behalf of the 1st respondent.

3. Admittedly the Workman joined the services as Junior Clerk and without completing the SSLC qualification, he completed the Co-operative training. Though the workman did not have the SSLC qualification, pursuant to the completion of the Co-operative training, benefit was extended by the Management to



the workman. Subsequently, as it was found out by the Management that the workman did not have the requisite qualification, the benefits granted to the Workman were withdrawn, which was questioned by the union by raising an Industrial Dispute. After consideration, the Labour Court, by an award dated 04.12.2003 held that the benefits ought to have been extended to the workman / Junior Clerk and the Labour Court also referred to the By-Law of the Management, prescribing the eligibility criteria for extension of benefits, which is extracted below:

S.No	Category of staff	Minimum Qualification and Experience	Age
7	Junior clerk	SSLC eligible for college course completed with cooperative training. Graduate preferred.	Below 26 years
(The qualification mentioned above will apply to Superintendent Senior Clerks and Junior Clerks to be appointed in all other Sections except Accounts).			

4. The Labour Court further held that when several persons have been granted benefits, there cannot be deprivation of the benefits to the similarly placed person like that of the Workman herein. Therefore, the Labour Court allowed the Industrial Dispute and granted all the benefits with continuity of service and the consequential benefits, namely promotion etc. I find that the interpretation given by the Labour Court pertaining to the By-Law is perfectly justified as there is no perversity in the award. Hence, this Court is not inclined to interfere with the same and the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

dpq



To

1. The Secretary,
The Chengalvarayan Co-operative Sugar Mills
Employees Union
Chengalvarayan Nagar,
Villupuram District,
Periyasevalai 607 209.

2. The Presiding Officer,
Labour Court, Cuddalore.

+1cc to Mr.R.Gopinath, Advocate, S.R.No.32469

W.P.No.35437 of 2004
and MP.No.42701 of 2004

GPL(CO)
RLP(17/09/2021)