



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.11.2021

Pronounced on :
23.12.2021

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34234 of 2012
and
M.P. No. 1 of 2012

Chengam Agricultural Producers Co-operative Marketing Society
Ltd.,
rep. by its Special Officer,
Thukkapettai,
Chengam Taluk,
Tiruvannamalai District. ... Petitioner

-vs-

1. The Presiding Officer,
Principal Labour Court,
Vellore District,
Vellore.

2. V.Anbalagan

3. The Management/Special Officer,
H.H.611, Melpuzhithiyur Primary
Agricultural Co-operative Credit Society,
Melpuzhithiyur Post,
Chengam Taluk,
Tiruvannamalai District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records of the First Respondent in his order in
C.P. No. 120 of 2010 dated 30.05.2011, quash the same.

For Petitioner : Mr. S.P.Yuaraj

For Respondents : R1 - Court

Mr. S.T.Varadarajulu (for R2)

Ms. M.E.Rani Selvam (for R3)



O R D E R

(through video conference)

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Heard Mr. S.P.Yuaraj, Learned Counsel for the Petitioner, Mr. S.T.Varadarajulu, Learned Counsel for the Second Respondent and Ms. M.E.Rani Selvam, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a Co-operative Society governed by the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the TNCS' Act for short). The Second Respondent had been employed as Packer in the fair price shop run by the Third Respondent which is another Co-operative Society. The said fair price shop of the Third Respondent in which the Second Respondent was working had been transferred to the Petitioner with effect from 01.01.1998 and as a consequence thereof, the Second Respondent came under the employment of the Co-operative Society of the Petitioner. The Government of Tamil Nadu has been periodically fixing the wages for the Packers engaged in the fair price shops run by the Co-operative Societies across the State as per the details shown below:-

S.No	Date	Particulars	Wages fixed
1.	16.06.1995	G.O. (Ms) No. 183, Co-operative, Food and Consumer Protection (C.A.2) Department	Rs. 800/- (Consolidate pay)
2.	19.10.2000	G.O. (Ms) No. 238, Co-operative, Food and Consumer Protection (C.A.2) Department	Rs. 1,150/- (Consolidate pay)
3.	28.09.2007	G.O. (Ms) No. 289, Co-operative, Food and Consumer Protection (C.A.2) Department	Rs. 1,800/- (Basic pay)

However, the Second Respondent had been paid only Rs. 150/- every month relying on Circular No. Na.Ka. 113209/90, PSDG.1 dated 26.07.1990 issued by the Registrar of Co-operative Societies, Chennai permitting engagement of casual labour at the rate of Rs. 50/- per day for three days in a month. The Second Respondent had made an application in C.P. No. 120 of 2010 under Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short) before the Principal Labour Court, Vellore (hereinafter referred to as 'the Labour Court' for short) claiming computation of monetary benefits that would arise by extending the benefits under the



aforesaid Governmental Orders after deducting the actual amounts paid to him. The Petitioner resisted such claim by contending that the services of the Second Respondent had been engaged only as a casual labour to whom the benefits of the aforesaid Governmental Orders would not apply and would have to be confined only to regular employees appointed following the prescribed procedure under the TNCS Act and the Rules made thereunder. The Labour Court in its order dated 30.05.2011 did not accept the contentions of the Petitioner and held that the Second Respondent was entitled to the wages as fixed in the aforesaid Governmental Orders and directed the Petitioner and the Third Respondent to pay the differential amount of Rs. 2,94,318/- to the Second Respondent. The Petitioner assails the said order in this Writ Petition.

3. Learned Counsel for the Petitioner painstakingly endeavoured to explain that recruitment rules had not been adhered while engaging the Second Respondent as Packer in the fair price shop of the Petitioner and the Third Respondent, which was also beyond their approved cadre strength and in view of the dictum laid down by the Division Bench of this Court in L.Justine -vs- Registrar of Co-operative Societies, Chennai [(2002) 4 CTC 385] and confirmed by the Hon'ble Supreme Court of India in A.Umarani -vs- Registrar Co-operative Societies [(2004) 7 SCC 112], the Second Respondent cannot be extended the benefits which had been conferred only to regularly appointed persons in accordance with the recruitment rules. It must, at once, be pointed out here that the Labour Court has recorded from the evidence adduced by the parties that the Second Respondent has worked as Packer in the fair price shop under the Third Respondent and the Petitioner during the relevant periods. That apart, the Petitioner cannot take advantage of its own wrong in availing the services of the Second Respondent, but unfairly deprive him of his legitimate rights to the benefits flowing therefrom. In this context, it must be highlighted that the Hon'ble Supreme Court of India in State of Punjab -vs- Jagjit Singh [(2017) 1 SCC 148] has explained the distinction between the concept of 'equal pay for equal work' from conferring permanency to those who have been appointed on ad-hoc or temporary basis or whose selection was not in conformity with the recruitment rules and has upheld the claim for parity in pay for such persons with those appointed against the sanctioned posts by observing as follows:-

"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes



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at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

This would obviously mean that the claim of the Second Respondent for differential wages from the Petitioner and the Third Respondent during the relevant periods in the instant case is absolutely justified and there does not appear to be any acceptable reason to take a different view from what has been concluded by the Labour Court in the impugned order. The Petitioner and the Third Respondent shall forthwith make payment of the entire amount due to the Second Respondent in terms of the impugned order, failing which the Second Respondent is entitled to apply for its execution before the proper forum in the manner recognized by law.

In the upshot, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vjt
To

1. The Presiding Officer,
Principal Labour court,
Vellore District,
Vellore.
2. The Management Special Officer,
H.H.611, Melpuzhithiyur Primary Agricultural
Co-operative Credit Society,
Melpuzhithiyur Post,
Chengam Taluk,
Tiruvannamalai District.



Copy to

1. The Special Officer,
Chengam Agricultural Producers
Co-operative Marketing Society Ltd.,
Thukkapettai,
Chengam Taluk,
Tiruvannamalai District.
2. V.Anbalagan,
S/o. Vadivelu,
No. 116, Raja Veethi,
Melchengam Village & Post,
Chengam Taluk,
Tiruvannamalai District.
3. The Section Officer,
ER Section,
High Court, Madras - 104.
(Registry is directed to return the entire
records in C.P. No. 120 of 2010 received
from the Principal Labour Court, Vellore.)
4. The Section Officer,
VR Section,
High Court, Madras - 104.
(Registry is directed to return the entire
records in C.P. No. 120 of 2010 received
from the Principal Labour Court, Vellore.)

W.P. No. 34234 of 2012

PVS[co]
NSK 27/12/2021