



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.12.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.No.19125 of 2021

and

W.M.P.No.20409, 20410 and 23367 of 2021

G.Ariyur Primary Agriculture Co-operative
Credit Society Ltd.,
Ariyur Village & Post,
Thirukovilure Taluk,
Kallakurichi District,
Represented by its President Mr.A.Kalaiazhagan

.. Petitioner

Vs.

Mr.V.Kamalanathan, S/o Venkatacharri

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records of the Award passed in C.P.No.16 of 2017, dated 12.12.2019 on the file of the Labour Court, Cuddalore and quash the same.

For petitioner : Mr.G.Sankaran for Mr.S.Bharathirajan

For respondent : Mr.K.Arunagiri

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorari to call for the records of the Award passed in C.P.No.16 of 2017, dated 12.12.2019 on the file of the Labour Court, Cuddalore and quash the same.

2. The petitioner is the President of the G.Ariyur Primary Agriculture Cooperative Society Limited. The respondent herein was employed as Sales-man on 07.12.1979 and he retired from service on 30.05.2015 on attaining the age of superannuation. While in service, the respondent was placed under suspension



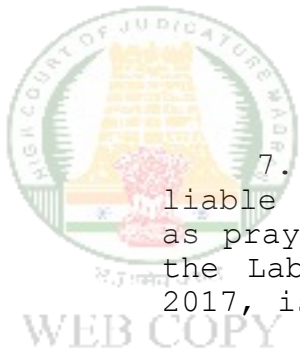
with effect from 01.07.1991 to 15.07.1994 on certain allegations of misappropriation. Later on, the suspension was revoked and he was reinstated in service. No criminal action was initiated against him. He was reinstated in service only on the basis of the undertaking that he would not claim any allowance during suspension period. The said undertaking was also recorded in the Minutes passed in the proceedings before the petitioner-Society and thereafter, he was reinstated in service.

3. Thereafter, the respondent/work-man filed a Claim Petition in C.P.No.1 of 2002 claiming back-wages and the said C.P. was dismissed on 06.08.2007 by the Labour Court, Cuddalore. In that C.P., it was agreed by the respondent that he would not claim any subsistence allowance during the period of suspension and it was also recorded. Without disclosing the filing of the said claim petition and also the dismissal of the same, the respondent herein filed another Claim Petition for the same claim in C.P.No.16 of 2017 after his retirement from service. Unfortunately, the petitioner-Society could not be represented, and therefore, the respondent has obtained an ex-parte order.

4. Now, on the basis of the order passed by the Labour Court, as against the allowing of the Claim Petition filed by the respondent/work-man, the present Writ Petition has been filed for the relief stated supra.

5. The learned counsel for the petitioner submitted that, earlier, the petitioner has given an undertaking before the Labour Court in C.P.No.1 of 2002 and only on the basis of the undertaking, he was reinstated in service and without disclosing the same, the respondent filed another Claim Petition for the same cause of action in C.P.No.16 of 2017, and unfortunately, in the absence of the appearance by the petitioner herein in C.P.No.16 of 2017, the respondent had obtained ex-parte order. The earlier C.P.No.1 of 2002 was dismissed, but without disclosing the same, the respondent/work-man managed to file the second Claim Petition and obtained ex-parte order.

6. This Court has also gone through the materials and documents filed in support of the contentions raised by the parties. This Court finds that the statement made by the petitioner-Society is true. The respondent/work-man approached the Labour Court for the second time in C.P.No.16 of 2017 for the very same cause of action, which is gross abuse of process of Court and more so, he has also concealed the fact that earlier, he had approached the Labour Court for the same cause of action in C.P.No.1 of 2002, which was dismissed on 06.08.2007. Hence, the impugned order is unsustainable in law.



7. In the said circumstances, the present Writ Petition is liable to be allowed. Accordingly, this Writ Petition is allowed as prayed for and the impugned order dated 12.12.2019 passed by the Labour Court, Cuddalore in Claim Petition in C.P.No.16 of 2017, is set aside. No costs. Consequently, W.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

CS

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to Mr.K.Arunagiri, Advocate SR. No.67582

+2ccs to Mr.S.Bharathirajan, Advocate SR. No.66910

W.P.No.19125 of 2021

GJ (CO)

PR (06/01/2022)