



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.25169 and 29020 of 2014

W.P.No.25169 of 2014:

K.Thavamani

... Petitioner

vs.

1. The President,
Walajabad Co-operative Agriculture Bank Ltd.,
Walajabad, Kancheepuram District.
2. The Presiding Officer,
II Additional Labour Court,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent relating to the Award dated 27.03.2014 passed in I.D.No.271 of 2008, insofar as it relates to award of Rs.1,00,000/- as compensation in lieu of reinstatement of the Petitioner in the 1st Respondent and quash the same, and consequently direct the 1st Respondent to reinstate and regularize the Petitioner in service and pay the backwages and other consequential benefits from 25.03.1979 till 30.11.2007 after fixing the scale of pay and all the terminal benefits to the Petitioner as a regular employee.

For Petitioner	:	Mr.R.Anbalagan
For 1 st Respondent	:	Mr.M.Devaraj

W.P.No.29020 of 2014:

The Walajabad Co-operative
Agricultural Bank Ltd.,
represented by its President,
(Formerly by the Special Officer),
Walajabad,
Kanchipuram District - 631 605.

... Petitioner

vs.



1. The Presiding Officer,
II Additional Labour Court,
Chennai.

2. K.Thavamani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari calling for the records relating to the proceedings of the 1st Respondent in I.D.No.271 of 2008 dated 27.03.2014 and quash the same.

For Petitioner : Mr.M.Devaraj

For 2nd Respondent : Mr.R.Anbalagan

C O M M O N O R D E R

W.P.No.25169 of 2014 has been filed challenging the Award dated 27.03.2014 passed by the 2nd Respondent in I.D.No.271 of 2008, insofar as it relates to award of Rs.1,00,000/- as compensation in lieu of her reinstatement in the 1st Respondent/Bank and for a consequential direction to the 1st Respondent to reinstate and regularize her in service and pay the backwages and other consequential benefits from 25.03.1979 till 30.11.2007 after fixing the scale of pay and all the terminal benefits to her as a regular employee.

2. W.P.No.29020 of 2014 has been filed by the Management challenging the Award dated 27.03.2014 passed by the II Additional Labour Court, Chennai in I.D.No.271 of 2008.

3. As the issue involved in both cases is one and the same, Writ Petitions are taken up for disposal by a common order.

4. For the sake of convenience, the Petitioner in W.P.No.25169 of 2014 is hereinafter referred to as the 'employee' and the Petitioner in W.P.No.29020 of 2014 is hereinafter referred to as 'Management'.

5. The employee joined the services of the Management as a Saleswoman in the year 1979 and has rendered 14 years of service. She has sought for regularization and thereafter approached the Authority seeking permanent status. The Management gave a reply that, a Scheme has been formulated with regard to regularization of persons, like that of the employee herein. For the charge that, there was shortage of stocks and funds, the employee was placed under suspension and enquiry was conducted under Section 81 of the Tamil Nadu Co-operative



Societies Act, 1983. Based on the Enquiry Report, the employee was dismissed from service by an order dated 31.08.1995. The employee had already filed a Writ Petition in W.P.No.7052 of 1994 seeking regularization of her services, which was withdrawn subsequent to her dismissal from service.

6. As the employee was not a permanent employee, she moved the District Munsif Court, Kancheepuram, for a declaration that, the order dated 31.08.1995 passed by the Management, removing her from service, is null and void. As the said Suit was dismissed on 27.07.2001, challenging the same, she filed A.S.No.56 of 2001 before the Additional District Judge, Fast Track Court No.II, Kancheepuram. By judgment and decree dated 21.01.2004, the Appellate Court allowed the Appeal and decreed the Suit holding that, the order passed by the Management in removing the employee from service, is null and void and the said judgment and decree became final.

7. Thereafter, the employee filed W.P.No.13535 of 2005 seeking a mandamus to reinstate her in service with backwages in terms of the said judgment in A.S.No.56 of 2001. But, the said Writ Petition stood dismissed in view of the ratio laid down by the Larger Bench of this Court in the case of Marappan vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689.

8. Pursuant thereto, the employee raised an Industrial Dispute in I.D.No.271 of 2008. Before the Labour Court, except, Section 81 proceedings, no documentary evidence was produced with regard to the conduct of the departmental enquiry to believe the contention of the Management that, the past records of the employee were bad. Also, the Management did not seek any explanation from the employee before the issuance of second Show Cause Notice about her past conduct. Hence, the Labour Court, instead of ordering reinstatement of the employee into service, ordered a sum of Rs.1,00,000/- as compensation.

9. It is seen that, the employee has raised the Industrial Dispute in the year 2008, only after her retirement on 31.01.2008. As charges against the employee were not established in the enquiry, she would be entitled to reinstatement and all other benefits. However, as the employee was dismissed from service on 31.08.1995, she would not be entitled to any benefits till her superannuation on 31.01.2008.

10. Today, when the matter is taken up for hearing, the employee has filed a Memo dated 26.07.2021 stating that, she is willing to accept a sum of Rs.1,00,000/- as compensation. Though the Award of the Labour Court is perverse insofar as not granting the relief of reinstatement and backwages to the



employee upto the age of superannuation, as the employee has confined the relief to only Rs.1,00,000/- (Rupees One Lakh only), the Management is expected to pay the said sum to the employee apart from other terminal benefits, like Gratuity etc. within a period of two months from the date of receipt of a copy of the order.

Both Writ Petitions are dismissed with the above direction. No costs. Consequently, connected M.P.Nos.1 and 1 of 2014 in the respective Writ Petitions, are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The President,
Walajabad Co-operative Agriculture Bank Ltd.,
Walajabad, Kancheepuram District.
2. The Presiding Officer,
II Additional Labour Court,
Chennai.

+2cc to Mr.R.Anbalagan, Advocate, S.R.No.37253,37254

W.P.Nos.25169 & 29020 of 2014

PCH(CO)
CT/12/10/2021