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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.2336 of 2019
and
C.M.P.No.15397 of 2019

(Through Video Conferencing)

The Management of
The Coimbatore Dist.Co-Operative
Milk Producer's Union Ltd.,
Rep.by its General Manager,
Pachapalayam, Coimbatore 10. .. Appellant/ Petitioner

vs.

1.The Presiding Officer
Labour Court, Coimbatore.

2.K.N.Murugesan ... Respondents/ Respondents

Writ Appeal filed under Clause 15 of the Letters Patent,
to set aside the order passed by this Court in W.P.No.15211 of
2018 dated 10.06.2019.

Prayer in W.P.No.15211 of 2018:

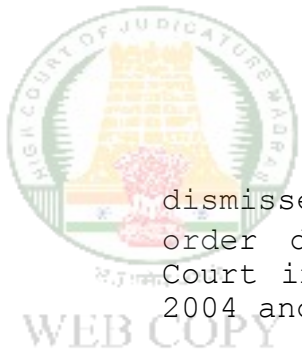
Writ Petition filed under Article 226 of the Constitution
of India Praying for issuance of a Writ of Certiorari calling
for the records pertaining to the order of the 1st respondent
Labour Court Coimbatore dated 26.9.2017 in Computation
Petition Nos. 202/2003 959/2003 422/2004 and 202/2007 and
quash the same.

For Appellant : Mr.P.Narayana Moorthy
For R2 : Mr.K.M.Ramesh
For R1 : Court

J U D G M E N T

(Judgment of the Court was delivered by C.SARAVANAN, J.)

The Appellant is aggrieved by the impugned order dated
10.06.2019 passed by the learned Single judge in W.P.No.15211



2. By the impugned order, the learned Single judge has dismissed the above writ petition and has upheld the common order dated 26.09.2017 passed by the 1st respondent Labour Court in Computation Petition Nos.202 and 959 of 2003, 422 of 2004 and 202 of 2007.

3. By the common order dated 26.09.2017, the Labour Court had directed the appellant to pay a sum of Rs.8,54,754/- towards wages and bonus to the 2nd respondent.

4. The impugned Judgment of the learned Single Judge is sought to be assailed in this writ appeal on the ground that the learned Single Judge ought to have considered earlier common order passed by this Court on 31.01.2017 in W.P.Nos.21303 to 21305 of 2005 and W.P.No.159 of 2011 and W.P.No.18810 of 2003. It is further submitted that both the appellant and 2nd respondent employee had also filed a calculation memo as per the specific direction of this Court. It is submitted that without taking into consideration of the calculation of the appellant, the Labour Court had taken the calculation submitted by the appellant and the 2nd respondent employee and order was passed by taking note of amounts paid to Dhyneswaran, Manager. It is submitted that the order of the Lower Court was without any basis and the computation was perverse, illegal and arbitrary.

5. It is further submitted that the learned Judge ought not to have considered the reinstatement and continuity of service and back wages were ordered without attendant benefits. It is further submitted that the respondent was not eligible for bonus. It is further submitted that there is no basis for taking the salary of the co-employee viz., Dhyaneswaran for calculating the salary of the 2nd respondent employee.

6. Heard the learned counsel for the appellant and the 2nd respondent. We have perused the impugned Judgment and the learned Single Judge passed by this Court in W.P.No.15211 of 2018 dated 10.06.2019.

7. By an order dated 31.01.2017 in W.P.Nos.21303 to 21305 of 2005, a Single Judge of this Court had held as follows: -



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"16. The fact remains that the award in I.D.No.149 of 1977 has reached finality and the award in no uncertain terms says that K.N.Murugesan would be entitled to reinstatement with continuity of service and backwages. This means that K.N.Murugesan's wages cannot be fixed at Rs.223.70/- per month, being the wages he was drawing in the year 1974 when he was terminated. He would be entitled to the annual increments and other periodical pay

increase had he continued in the service. He is not seeking backwages for notional promotion. Had he continued to work as a Clerk, there would have been increase in his salary periodically, which he is claiming in the light of the award passed in I.D.No.149 of 1977."

8. In our view, the Labour Court has correctly adopted the comparison as between the 2nd respondent employee and another co-employee Dhyaneswaran. The Lower Court has therefore correctly arrived at the amount to be paid by the appellant.

9. The learned Single Judge has considered the reasons adopted by the Labour Court in its order dated 26.09.2017 in Computation Petition Nos.202/2003, 959/2003, 422/2004 and 202 of 2007. In fact, the learned Single Judge has also taken note of the earlier direction passed by this Court, a comparative calculation memo was filed both the appellant Management and the 2nd respondent employee. Therefore, the learned Single Judge has correctly dismissed the writ petition filed by the appellant herein.

10. We therefore find no reasons to interfere with the impugned order passed by the learned Single Judge.

11. In view of the same, we are inclined to dismiss the above Writ Appeal and accordingly dismiss the same. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar



To:-

The Presiding Officer
Labour Court, Coimbatore.

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+1cc to Mr.P.Narayanamurthy , Advocate SR.No. 34929

+1cc to Mr.K.M.Ramesh, Advocate SR.No. 34301

W.A.No.2336 of 2019

and

C.M.P.No.15397 of 2019

ssd co

A.SK(18.08.2021)