

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.No.35365 of 2019

G.Chandramohan

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
Department of Co-operation,
Natarajan Maaligai, Mc Nichols Road,
Kilpauk, Chennai - 600 010.
 2. The Joint Registrar of Co-operative Societies,
Department of Co-operation,
Kancheepuram District Co-operative Training Institute,
Kancheepuram.
 3. The Management of Kancheepuram,
Central Co-operative Bank Ltd.,
Represented by its Special Officer,
No.15, Sheikpet Middle Street,
Kancheepuram - 631 501.
- ... Respondents

PRAYER: The Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the III Additional Labour Court, Chennai, in connection with the impugned order dated 22.07.2019 passed in CP.No.374/2013 and quash the same.

For Petitioner : Mr.M.Ramamoorthi

For 1st and

2nd Respondents

: Mr.L.P.Shanmugasundaram
Special Government Pleader

For 3rd Respondent

: Mr.R.Gopinath

O R D E R

The present Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records of the III Additional Labour Court, Chennai, in connection with the impugned order dated 22.07.2019 passed in CP.No.374 of 2013 and quash the same.

2. The petitioner was dismissed from service on 03.09.1986. During the pendency of the dispute, a Settlement under Section 18 (1) of the Industrial Disputes Act, 1947, was entered into between the petitioner and the Management. Pursuant to the Settlement, the petitioner had received the service benefits upto the date of his dismissal and he was taken as fresh entrant and reinstated on 27.06.2000. Thereafter, he attained the age of superannuation and retired from service in February, 2011. After his retirement, the petitioner claimed that his services should be counted from 03.09.1986 as he was reinstated in service.

3. The Labour Court, after going through the terms of settlement, has given a finding that the petitioner has relinquished the claim for backwages during the period of non-employment and waived his rights to claim continuity of service, seniority or promotion based on the date of his original employment with the management and that he received all the service benefits without any issue and therefore, he is not entitled to any relief.

4. The learned counsel for the petitioner would vehemently contend that the Settlement under Section 18 (1) of the Industrial Disputes Act, was signed by an Officer without authority. Neither the Signatory has taken prior approval from the competent authority nor his action was ratified on a later date. In that view of the matter, the Settlement has become redundant and any action taken on the basis of the Settlement is not valid in the eye of law. Therefore, he would submit that the service benefits shall be paid to him from the date of his dismissal from service.

5. I considered the submissions.

6. The main contention of the petitioner is that he was forced to sign in the Settlement by adopting deceptive methods. Since he continued in the employment after reinstatement without any defect, he is entitled to all the service benefits.

7. A reading of the Settlement under Section 18(1) of the I.D.Act as under:-

"1. The workman agrees to relinquish his claim for back wages during the period of his non-employment (i.e. from the date of dismissal to date of re-joining duty). The workman has also waived his rights to claim continuity of service, seniority or promotion based on the date of his original employment with the management."

2. In considering the relinquishment of the employee towards back wages and continuity of service, the management offers the employee to be a fresh recruitment as Assistant without any continuity of service or without any claim for monetary benefits or other-wise whatsoever in respect of his past service.

3. It is further agreed between the management and the workman that the past services of the employee shall not be taken into account for any purpose whatsoever.

4. The workman has specifically agrees and undertakes that he will not claim any service benefits or monetary benefits or any other benefits relating to seniority or promotion in respect of his earlier employment which culminates from the order of dismissal from service.

5. The workman will be offered employment in the office of the management as a fresh recruit in the cadre of Assistant on and from the date of joining in the service of the Bank. The service of the workman are subject to the regular terms and conditions of the employment as applicable to other employees."

8. Clause-1 of the Settlement clearly states that the workman agrees to relinquish his claim for back wages during the period of his non-employment (i.e. from the date of dismissal to date of re-joining duty). The workman has also waived his rights to claim continuity of service, seniority or promotion based on the date of his original employment with the management. Therefore, the workman has not only relinquished his back wages for the period during his non-employment, but also continuity of service from the date of original employment. In effect, the workman has been taken as a fresh entrant and he will be entitled for any benefit only from the date of his fresh appointment.

9. Unfortunately, the petitioner has not challenged the Settlement as illegal or bad for lack of authority. Having kept quiet, he cannot turn around and say that he was forced to sign by adopting deceptive methods or the authority, who signed the Settlement is incompetent to do so. Apart from this, it is an admitted fact that the petitioner had received all the accrued benefits from the date of his original appointment till the date of his dismissal. Having received the benefits and acted upon the terms of settlement, the workman cannot now reprobate.

10. Therefore, the finding of the Labour Court that the petitioner has no pre-existing right to claim back wages for the period from the date of his dismissal from service on 03.09.1986 till the date of his fresh employment on 27.06.2000 is sustainable and is correct. Therefore, no interference is warranted and the Award passed by the Labour Court is hereby confirmed.

In view of the above conclusion, the Writ Petition stands dismissed. There shall be no order as to costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Registrar of Co-operative Societies,
Department of Co-operation,
Natarajan Maaligai, Mc Nichols Road,
Kilpauk, Chennai - 600 010.
2. The Joint Registrar of Co-operative Societies,
Department of Co-operation,
Kancheepuram District Co-operative Training Institute,
Kancheepuram.
3. The Special Officer,
Management of Kancheepuram,
Central Co-operative Bank Ltd.,
No.15, Sheikpet Middle Street,
Kancheepuram - 631 501.
4. The Presiding Officer,
III Additional Labour Court,
Chennai.

+1cc to The Special Government Pleader SR.NO.4565

AKM/23.02.21/ 4P-6C/

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