



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.13459 of 2010
and
M.P. (MD) .No.2 of 2010

The Management
A.2905 Madurai Janatha Co-operative
Stores Limited through its Special
Officer, 81 A, Munichalai Road,
Madurai 625 009.

...Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.
2.S.Avasiyam

... Respondents

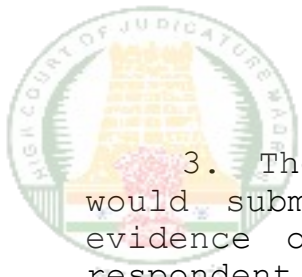
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the first respondent's impugned order passed in C.P.No.105 of 2004, dated 10.09.2009 and quash the same.

For Petitioner	:	Mr.R.Saravanan
		for Mr.C.G.Pethanaraj
For R2	:	Mr.T.Ravichandran

O R D E R

This writ petition has been filed challenging the award passed by the Labour Court in C.P.No.105 of 2004, dated 10.09.2009 and to quash the same.

2. The case of the petitioner is that the petitioner Stores is a Co-operative Institution registered under the Tamil Nadu Co-operative Societies Act and Rules. The second respondent was working as a Cashier in the petitioner's Stores and received a sum of Rs.2,425/- as monthly salary and after completing 24 years of service, he was retired from service on 30.04.2002. However, at the time of retirement, leave salary, national festival holiday wages and bonus were not paid to the second respondent. In spite of his repeated request, the petitioner Stores did not pay the amount, for which the second respondent has raised an Industrial Dispute in C.P.No.105 of 2004 before the Labour Court, under Section 33(c) (2) of the Industrial Disputes Act. The Labour Court, Madurai has awarded a sum of Rs.57,003/-, in C.P.No.105 of 2004, on 10.09.2009. The present writ petition has been filed.



3. The learned counsel appearing for the petitioner Stores would submit that the Labour Court has failed to consider the evidence of M.W.1 and passed an award in favour of the second respondent. He would further submit that the petitioner Stores was not functioning from 17.01.1990 to 31.08.1997 and since the petitioner Stores was not functioning for the above said period, the second respondent is not entitled to get any relief from the petitioner Stores for the above said period and claiming the said amount before the Labour Court is unsustainable one. Hence, he prayed for allowing this writ petition.

4. Per contra, the learned counsel appearing for the second respondent would submit that though the petitioner Stores examined M.W.1 and marked 5 documents, all those documents are irrelevant to the claim made by the second respondent. Further, no documents were produced before the Labour Court with regard to the payment of leave salary, national festival holiday wages and bonus. He would further submit that in the absence of any documents, the Labour Court has rightly passed an award in favour of the second respondent and hence, he prayed for dismissal of this writ petition.

5. Heard the learned counsel for the petitioner, learned counsel for the second respondent and perused the materials available on record.

6. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and substitute its own conclusions, merely because this Court is of the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

7. A perusal of the award passed by the Labour Court, dated 10.09.2009, in C.P.No.105 of 2004, would reveal that no documents were filed with regard to the payment of leave salary, national festival holiday wages and bonus. In the absence of any documents, the Labour Court has arrived a conclusion and awarded a sum of Rs.57,003/-, which cannot be interfered with by this Court. Hence, the award passed by the Labour Court, Madurai in C.P.No.105 of 2004, dated 10.09.2009, is confirmed and the Writ Petition is dismissed.



No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (ADII)

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/ /2021

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.T.RAVI CHANDRAN, Advocate (SR-589[F] dated 08/01/2021)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-613[F] dated 08/01/2021)

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SMV(CO)
KB(27.01.2021) 3P 4C