



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2021

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.11488 of 2013

and

M.P.(MD)No.1 and 2 of 2013

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The Special Officer,
DD 304, Ramalingapuram Primary
Agricultural Co-operative Bank Ltd.,
Ramalingapuram, G.Usilampatti (P.O),
Andipatti Taluk, Theni District. ... Petitioner
vs

1. The Presiding Officer,
Labourt Court,
Madurai.

2. P.Muthusamy, ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records of the impugned order passed by the first respondent, dated 27.09.2012 in I.D.No.04 of 2009 and quash the same.

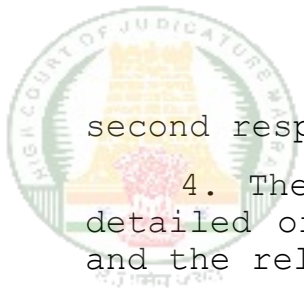
For Petitioner : Mr.R.Saravanan
For Respondents : Labour Court, for R-1
Mr.S.Mohandass, for R-2

O R D E R

The Co-operative Society has filed this writ petition against the award passed in I.D.No.4 of 2009, dated 27.06.2012.

2. The second respondent in this petition was appointed in the petitioners Society as Night Watchman on 30.07.1983. A Charge Memo was issued on 22.04.2004, alleging that he is illegally appointed and he has produced Education certificate which seems to false and bogus. Thereafter, an enquiry was conducted and the enquiry report states that the charges were proved. The Co-operative Society has issued the second show cause notice to impose a major punishment and after getting an explanation from the second respondent he was terminated from service on 15.10.2004. Aggrieved over the same, the second respondent has preferred I.D.No.4 of 2009 and the same was allowed, directing the Co-operative Bank to grant retirement benefits. Aggrieved over the said order, the present writ petition is filed.

3. Heard Mr.R.Saravan, learned Counsel appearing for the petitioner and Mr.S.Mohandass, learned Counsel appearing for the



second respondent.

4. The Labour Court has considered Ex.M1-M12 and has passed a detailed order, taking all the facts and circumstances of the case and the relevant portion is extracted hereunder:

"I have perused the documents and the submission of the petitioner. It is seen that the report of the Assistant Educational Officer, Andipatti is vague in nature. He has not given a detailed report. The respondent has not filed the bogus certificate produced by the petitioner for getting employment. The petitioner categorically stated that he has not produced the certificate issued by Panchayat Union School, G.Usilampatti. The respondent has not filed any documents filed before the Enquiry Officer, It is seen that the petitioner joined the service on 30.07.1983 and he worked there till 20.10.2004. Hence, it is seen that he was allowed to work there for about 20 years. The respondent has not taken any steps to verify the correctness of the certificate at the earliest possible time. It is true that production of bogus certificate in getting the employment is a serious charge. The petitioner has stated that the certificate given by the petitioner to the respondent was actually not given by the petitioner. The petitioner's exhibits in the main petition is not acceptable. However it is also stated that the petitioner has already attained the age of superannuation. The petitioner's Counsel submitted that the petitioner can be given retirement benefits considering the length of service rendered by him. He rendered work with the respondent for 20 years. Hence the Court is of the view that the petitioner can be given retirement benefits since there is no loss caused by him to the respondent. Hence, the punishment imposed on the petitioner is not justified. It is true that the granting of relief is discretionary power of the Court. In case of dismissal, discharge or termination, the Labour Court has power to interfere with the order of punishment when punishment is disproportionate to the charges, In this case, the petitioner is not entitled to reinstatement since he has already retired from service. Regarding backwages, the granting of backwages is not an automatic one. It depends upon the facts and circumstances of the case. The allegations against the petitioner is serious in nature. In view of the circumstances. The backwages cannot be granted to the petitioner. The petitioner is entitled to retirement



benefits. Under the circumstances, this Court is of the view that the respondent can be directed to disburse the claim to the petitioner. The petitioner is not entitled to any other relief and the points are answered accordingly."

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5. The Labour Court as held that the Educational authority has given a certificate which is vague in nature. The authority has not given a detailed report. The second respondent has submitted before the Enquiry Authority that his earlier certificate was produced by his relative and thereafter, the second respondent has obtained a correct certificate and submitted before the Enquiry Authority. The Enquiry Authority has not stated anything about the second certificate. The Bank has not produced the second certificate before the Enquiry Authority as well as not submitted that before the Labour Court.

6. It is seen from the records that the petitioner was appointed on 30.07.1983 and the Charge Memo was issued on 22.04.2004, after 21 years, the said Charge Memo has been issued. The Labour Court has taken the petition for hearing, by the time, the second respondent has attained superannuation. Taking all these factors into consideration, the Labour Court as rightly held that the petitioner is not entitled to reinstatement because of superannuation and because of the allegation of false certificate, which is serious in nature, the second respondent is not entitled to backwages. The Labour Court has also rightly held that the petitioner is entitled to service benefits because the second respondent has put in 21 years of service. Therefore, this Court confirms the order of the Labour Court and directing the petitioner to give continuity of service and grant all the consequential benefits and the retirement benefits within a period of six weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

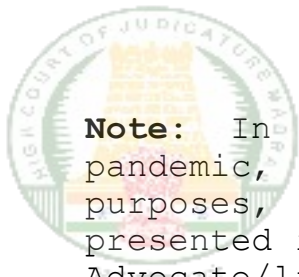
Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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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.

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To

1. The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.S.MOHANDOSS, Advocate (SR-38431[F] dated 13/12/2021)

+1 CC to M/s.R.SARAVANAN, Advocate (SR-38147[F] dated 10/12/2021)

W.P. (MD) No.11488 of 2013
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NSN(CO)
KB(07.01.2022) 4P 4C