



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 16415 of 2012

and

M.P. (MD) No. 1 of 2012

The Management,
A-2478 Melur Agricultural Producers Co-operative Marketing Society
Ltd.,
Trichy Road,
Melur,
Madurai District. ... Petitioner

-vs-

1. The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road,
Madurai - 625 020.

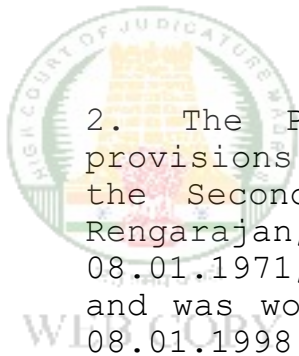
2. The Secretary,
MDU. 1151, Melur Dravidar Co-operative
Marketing Law Employees Union Ltd.,
30, Gomathiapuram,
Melur,
Madurai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records of the First Respondent in I.D. No. 133 of 2004 and quash the award dated 23.04.2012 passed therein.

For Petitioner : Mr. P.Ravichandran
For First Respondent : Court
For Second Respondent : Mr. R.Saravanan,
Standing Counsel

O R D E R
(through video conference)

Heard Mr. P.Ravichandran, Learned Counsel for the Petitioner and Mr. R.Saravanan, Learned Standing Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. The Petitioner is a Co-operative Society governed by the provisions of the Tamil Nadu Co-operative Societies Act, 1983, and the Second Respondent is a Trade Union of its employees. One Rengarajan, who was employed as salesman by the Petitioner from 08.01.1971, was promoted as clerk by a resolution dated 15.12.1995 and was working in that post. In furtherance to a settlement dated 08.01.1998 entered between the Petitioner and the Second Respondent under Section 12(3) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short), the promotion of 12 employees as clerk were regularized, but it does not include the said Rengarajan. In that backdrop, an industrial dispute in I.D. No. 133 of 2044 before the Labour Court, Madurai (hereinafter referred to as 'the Labour Court' for short) under Section 2(k) of the I.D. Act, was raised by the Petitioner on behalf of its member, the said Rengarajan claiming the benefit of parity in his pay scales with the said 12 persons whose promotion as clerk had been regularized in the aforesaid settlement. According to the Petitioner, such promotion to the post of clerk enjoyed by the said Rengarajan was beyond the approved cadre strength under Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1988 (hereinafter referred to as 'the Rules' for short), which benefit could not be claimed by him. The Labour Court by award dated 23.04.2012 passed in I.D. No. 133 of 2004 overruled the said objection raised by the Petitioner by holding that no action had been taken for cancelling the promotion to the post of clerk granted to the said Rengarajan and since it had been shown that he had been discharging duties of a clerk in the promoted post, he would be entitled to the benefit of the same wages as granted by the Petitioner to the similarly placed persons in that post on the principle of 'equal pay for equal work' and decided the industrial dispute in favour of the Second Respondent. Aggrieved thereby, the Petitioner has filed this Writ Petition challenging the said award passed by the Labour Court.

3. Though the Petitioner seeks to re-agitate the same issue in this Writ Petition, there does not appear to be any acceptable reason to take a different view from what has been concluded by the Labour Court in the impugned award. It must, at once, be pointed out here that it is not the case of the Petitioner that the said Rengarajan had not worked in the higher post of clerk during the relevant period, apart from the conclusions arrived by the Labour Court that his promotion had never been cancelled, if it had been irregular for want of approval of cadre strength. In this context, it must be highlighted here that the Hon'ble Supreme Court of India in **State of Punjab -vs- Jagjit Singh** [(2017) 1 SCC 148] has explained the distinction between the concept of equal pay for equal work from conferring permanency on those who have been appointed on *ad-hoc* or temporary basis or whose selection was not in conformity with the selection procedure contemplated under the Rules and has upheld the claim for parity in pay for such persons with those appointed in regular posts by observing as follows:-



"58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a Welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Anyone, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self-respect and dignity, at the cost of his self-worth, and at the cost of his integrity. For he knows that his dependants would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation."

This would obviously mean that the claim of the Second Respondent for the differential wages for the said Rengarajan for the relevant period in the instant cases is absolutely justified.

4. The result of the foregoing discussion is that there does not appear to be any infirmity in the impugned award passed by the Labour Court warranting interference by this Court in the exercise of discretionary powers of judicial review under Article 226 of the Constitution of India. The Petitioner shall forthwith make payment of the entire amount due to the said Rengarajan, failing which the said Rengarajan is entitled to seek execution of the impugned award before the proper forum in the manner recognized by law.

In the upshot, the Writ Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

1. The Presiding Officer,
Labour Court,
District Court Complex,
Melur Road,
Madurai - 625 020.

Copy to

The Section Officer, V.R.Section(2C)
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.R.SARAVANAN, Advocate (SR-23954[F] dated
27/07/2021)

+1 CC to M/s.RAVICHANDRAN, Advocate (SR-24225[F]
dated 28/07/2021)

W.P. (MD) No. 16415 of 2012
26.07.2021

NSN(CO)
KB(21.09.2021) 4P 6C