

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.03.2022

CORAM

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.No.1888 of 2011
and
M.P.Nos.1 & 2 of 2011

Nirvagam
Salem Mavatta Madhya Kotturavu,
Vangi Limited,
Cherry Road,
Salem - 1.

..Petitioner

Vs.

1.The Presiding Officer,
Industrial Tribunal,
Chennai - 600 104.

2.The Workmen rep.by
Salem Mavatta Madhya Kotturavu,
Anna Paniyalargal Sangam,
Cherry Road, Salem - 1.

..Respondents

Prayer: Writ Petition filed Under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records in I.D.No.1 of 2007 on the file of the Industrial Tribunal, Chennai - 600 104, the 1st respondent herein and to quash the award dated 30.10.2009 passed therein.

For Petitioner : Mr.M.R.Raghavan

For Respondents : Mr.N.Kolandaivelu
for R1 Tribunal

O R D E R

The petitioner which is a Cooperative Bank is aggrieved against the Award of the Industrial Tribunal passed in I.D.No. 1 of 2007, whereby the proposal of the petitioner Bank to recover the excess amount paid on account of fixation of the selection grade from 01.08.1994.

2. The learned counsel for the petitioner submitted that the Registrar of the petitioner Bank have powers to fix wages on the basis of selection grade and when such fixation is not properly done, the Registrar would have powers to order for

recovery. The issue with regard to entitlement of the employees of the Cooperative Bank for selection grade pay on completion of 12 years on the basis of the orders in G.O.Ms.No.203, Co-operation, Food and Consumer Protection Department, dated 21.05.2005 and G.O.Ms.No.144, Co-operation, Food and Consumer Protection Department, dated 06.07.2000 had come up before for consideration, in various judgments, including the orders in Nirvagam, Dharmapuri Mavatta Madhiya Kooturavu Vangi, Dharmapuri, passed in Writ Appeal No.1185 of 2010 and by an order dated 27.09.2012, the Hon'ble Division Bench, was pleased to pass the following order:

"7.Learned Senior Counsel representing the appellant management, reiterating the very same contentions raised before the Tribunal and the learned single judge, submitted that pursuant to G.O.Ms.No.203, dated 21.05.2005 which contemplates the guidelines to fix the salary as per G.O.Ms.No.144, dated 06.07.2000, the Management had to resort to recovery of amounts erroneously paid to the employees. He further submitted that the notice dated 03.01.2001 under Section 9(A) was issued by the Management in good faith and out of the powers of the Registrar under the provisions of the Tamil Nadu Co-operative Societies Act and as such, the employees are estopped from challenging the act of recovery proceedings and hence the order passed by the Tribunal and the learned Single Judge causing interference to the recovery order is unwarranted and would pray to allow the writ Appeal.

8.From the materials on record and the averments made by either parties, it is seen that the petitioners are fighting for their pay right from 2002 and inspite of the fact that the Tribunal passed an Award in favour of the respondent Union and the same was also affirmed by the learned Single Judge after considering the issue extensively, the appellant Bank is reluctant to extend the benefit tot he respondent Union.

9.We do not think that sitting in appeal, we would be justified in interfering with the conclusion recorded by the Labour Court and confirmed by the Learned Single Judge on what is essentially a conclusion on a question of fact. Normally, while sitting in appeal, the Court must be slower and would not interfere with the findings based on facts, however, when there is a legal question involved or an illegality apparent on the face of record, the Court can always interfere.

10.The facts in the present case are different. The petitioners in this case are claiming the benefits right from 2002. It is to be stated that the matter has been dragged from 2002 without any valid reason with continuous unnecessary litigations.

11.Considering the overall view of the matter, we do not see any illegality or infirmity in the order passed by the learned single Judge calling interference. Accordingly, the Writ Appeal falls and the same is dismissed. No costs."

3. The aforesaid extract is self-explanatory. Since the issue involved in the present impugned Award is identical to that of the issue dealt with by the Hon'ble Division Bench in the aforesaid case is one and the same, I do not find any infirmity in the order of the Industrial Tribunal.

4. Accordingly, this Writ Petition stands dismissed. Consequently, the petitioner Bank shall comply with the direction given in the impugned Award, dated 30.10.2009 in I.D.No.1 of 2007, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-CCC)

//True copy//

Sub Assistant Registrar

Pns

To

1.The Presiding Officer,
Industrial Tribunal,
Chennai - 600 104.

+1cc to Mr.M.R.Raghavan, Advocate SR.No.13893

+1cc to Mr.Muthumani Doraisami, Advocate SR.No.14054

W.P.No.1888 of 2011
and
M.P.Nos.1 & 2 of 2011

AK(CO)
GMY(18/03/2022)