

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.8314 of 2014

and

M.P.No.1 of 2014

Management  
of Kangeyam PACB  
Kangeyam,  
Erode District,  
by its President

... Petitioner

Vs.

1.The Presiding Officer,  
Labour Court,  
Salem.

2.N.Palanisamy (Deceased)

3.Santhamani

4.Ezhilarasan

5.Pukalaravinth  
(R3 to R5 substituted as Legal Representatives  
of Deceased Second respondent vide order  
dated 25.04.2022 made in W.M.P.No.6251/2022  
in W.P.No.8314/2014)

... Respondents

Prayer: Writ Petition filed under Article 226 of the  
Constitution of India for issuance of a Writ of Certiorari,  
calling for the records pertaining to the award dated 03.06.2013  
passed by the 1<sup>st</sup> respondent in I.D.No.499/2002, directing  
reinstatement of the 2<sup>nd</sup> respondent with 25% back wages and quash  
the same.

For Petitioner : Mr.R.M.D.Nasrullah

For Respondents  
[For R1] : Labour Court

[For R3 to R5] : No appearance

R2 Died : Steps taken

## ORDER

The Award dated 03.06.2013 passed in I.D.No.499 of 2002 is under challenge in the present writ petition.

2. The writ petitioner is Management of Kangeyam Primary Agricultural Co-operative Bank, which is a registered society under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner states that they are running 9 Fair Price Shops for distribution of essential commodities to the people at large. For each shop, there is one sales person. The second respondent / workman was employed as Packer in the writ petitioner society. The second respondent refused to receive the demand draft towards the payment of one month notice pay and retrenchment compensation along with the covering letter, containing reasons for effecting the retrenchment, when tendered to the second respondent. Therefore, the Management has effected the retrenchment and send the same through RPAD on 04.08.2001. The writ petitioner is disputing the employment of the second respondent / workman as Night Watchman.

3. In this regard, it is contended that the Labour Court has not considered these facts and formed an erroneous opinion that the second respondent / workman was employed as Night Watchman in the petitioner Co-operative Society. The petitioner states that the second respondent/workman was not appointed as per Rule 149 of the Tamil Nadu Co-operative Societies Rules and therefore, his appointment was irregular. Thus, the Award impugned is liable to be set aside.

4. During the pendency of the writ petition, the second respondent/workman died and his legal heirs were substituted. The Labour Court adjudicated the issues with reference to the documents and evidences. The findings of the Labour Court reveals that the order of retrenchment was passed without following the procedures contemplated under 25-F of the Industrial Disputes Act. In the retrenchment order, the name of the second respondent was stated as Weighman. However, the name of the Fair Price Shop has not been stated. In any angle, the order of retrenchment was not issued in consonance with the principles to be followed and in accordance with the provisions of the Industrial Disputes Act. Thus, the Labour Court arrived a conclusion that the order of retrenchment issued against the 2<sup>nd</sup> respondent / workman was improper.

5. Regarding the second issue, the Labour Court relied on the judgment in the case of Paramjit Singh and Another Vs. Labour Court, Patiala and Others reported in 2013 (1) LLJ 497, wherein, the Court held that the provisions contained in Section 25-F (a) and (b) are mandatory and termination of service of a

workman, which amounts to retrenchment within the meaning of Section 2(oo) without giving one month's notice or pay in lieu thereof and retrenchment compensation is null and void/illegal/inoperative. In view of the fact that the writ petitioner/Management has failed to establish that they have passed the order of retrenchment by following the procedures as contemplated under the provisions of the Act and Rules, the Labour Court formed an opinion and passed the Award for reinstatement with 25% backwages.

6. Thus, this Court do not find any infirmity or perversity in respect of the findings of the Labour Court as the petitioner/Co-operative society has failed to establish that the retrenchment of the second respondent/workman was made in accordance with law. That apart, the second respondent/workman died during the pendency of the writ petition and now, the legal heirs are substituted. Under these circumstances, this Court is not inclined to interfere with the Award passed by the Labour Court. Consequently, the Award dated 03.06.2013 passed in I.D.No.499 of 2002 stands confirmed and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,  
Labour Court,  
Salem.

+1cc to Mr.L.P.Balaji Ram, Advocate, S.R.No.40025

W.P.No.8314 of 2014

SKM(CO)  
CT/18/07/2022