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IN THE HIGH COURT JUDICATURE AT MADRAS

DATED : 26.10.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.22123/2014 and M.P.Nos.1/2014 and 1/2015

The Management of Semmandapatty Primary
Agricultural Co-operative, 8718 Credit Society
rep. by its President S.A.Seran Senguttuvan,
Semmandapatty, Omalur Circle,
Salem District.

... Petitioner

Vs

1.The Labour Court,
Salem.

2. A.Subramanian

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking for issuance of a Writ of Certiorari, calling for the records
relating to the order of the 1st respondent dated 20.11.2013 in
C.P.No.53/2011 and quash the same.

For Petitioner : Mr.K.Selvaraj

For 2nd Respondent : Mr.S.Ayyathurai

ORDER



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Through G.O.Ms.No.131, Co-operation, Food and Consumer Protection Department, dated 04.06.1999, the pay scales of the employees of the Primary Agricultural Co-operative Credit Societies were directed to be revised w.e.f. 01.07.1997. The 2nd respondent herein, who was a Salesman under the petitioner's Society, filed a Claim Petition on 12.09.2011 claiming the benefits of G.O.Ms.No.131 for the period between 01.12.1998 and 30.11.2007, for a sum of Rs.2,99,960/-. The Management had taken a stand before the Labour Court that in view of the settlement arrived between the Society and its employees under Section 18(1) of the Industrial Disputes Act, 1947, their pay scales were revised in accordance with the terms of the settlement and therefore, they cannot claim the benefit of G.O.Ms.No.131. The Labour Court, however, having come to the conclusion that since the applicability of the terms of the 18(1) settlement was not clearly established before it and the management themselves have admitted that the terms of G.O.Ms.No.131 would apply to the employees of the petitioner's society, had allowed the claim petition and computed the claim



at Rs.2,99,960/-. This order dated 20.11.2013 is under challenge in the present Writ Petition.

2. Learned Counsel appearing for the petitioner raised two grounds, attacking the order passed under Section 33 (C) (2) of the Act. Firstly, it is submitted that in view of the settlement arrived between the employees and the petitioner's society, the Labour Court ought not to have computed the amount claimed by the petitioner. Secondly, he submitted that since the society was under loss, they were unable to pay its employees that the benefits of G.O.Ms.No.131.

3. Per contra, the learned Counsel appearing for the 2nd respondent submitted that the rights of the 2nd respondent has been crystalised through G.O.Ms.No.131 and as such, the 2nd respondent has filed the claim petition claiming benefit of the Government Order. He also submitted that the 18(1) Settlement would apply only to the employees who had existed w.e.f. 01.04.2008 onwards and that the settlement is not applicable to the 2nd respondent herein.



4. The scope of the Labour Court to consider a Claim Petition made under Section 33 (C) (2) of the Act is limited to any claim which the workman would be entitled to receive from his employers and which is capable of being computed in terms of money. In the instant case, the Claim Petition itself is based on Government Order for revision of the pay scales which order would be applicable to all the Primary Agricultural Co-operative Societies w.e.f. 01.04.1997 onwards. By taking into consideration the evidence of the Management witness that the Government Order would be applicable to the case of the petitioner's society also, the Labour Court had held that the 18(1) Settlement neither carries the date nor establishes the applicability to deprive the benefits of G.O.Ms.No.131 and thus allowed the Claim Petition. I do not find any infirmity in such findings. When the 2nd respondent was entitled to receive from the petitioner's society the revised pay which was capable of being computed in terms of money, it could be said that such a right is a pre-existing right and therefore, the Labour Court had rightly allowed the Claim Petition.



5. There seems to be a small infirmity in the period of claim made. Admittedly, the 2nd respondent herein had resigned from the services of the petitioner's society on 17.09.2007. However, the period in the claim petition was between 01.12.1998 and 30.11.2007. When admittedly, the 2nd respondent was not in the rolls of the petitioner's society between 18.09.2007 and 30.11.2007, the amount computed for this period requires to be deducted.

6. Thus, I do not intend to interfere with any of the findings in the impugned order of the 1st respondent court. However, revised orders are now required to be passed by restricting the period for computation from 01.12.1998 to 17.09.2007. Accordingly, the matter is remitted back to the Labour Court, Salem, who shall pass revised orders, insofar as computing the claim for the period from 01.12.1998 to 17.07.2007 alone. It is made clear that no fresh findings or evidences be required for the purpose of such computation. The Labour Court shall summarily exercise its powers and pass a

**M.S.RAMESH, J.**

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revised calculation of the quantum of the amount computed alone and shall not go into any of the other merits of the case. Such orders shall be passed, at least within a period of three months from the date of receipt of a copy of this Order.

7. In the result, the Writ Petition stands partly allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

26.10.2022

Speaking/Non-speaking Order
Index : Yes/No
Internet : Yes/No
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To
The Labour Court, Salem.

W.P.No.22123/2014