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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.09.2022**

CORAM

THE HON'BL MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.10722 of 2012
and
M.P.(MD)No.1 of 2012

The Management,
A 2905 Madurai Janatha Co-operative
Stores Ltd.,
represented through Special Officer,
81-A, Munichalai Road, 2nd Floor,
Madurai – 19. ... Petitioner

Vs.

1. The Presiding Officer,
   Labour Court, Madurai.

2. Maruthupandian (Died)

3. M.Mariammal
4. M.Rajathi
5. M.Raja
6. M.Sudha ... Respondents

(R3 to R6 are impleaded as legal heirs of R2,
vide Court order, dated 09.07.2021
in W.M.P.(MD)No.4636 of 2021 in W.P.(MD)No.10722)

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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the first respondent made in I.D No. 199/2007, dated 16.02.2012 and quash the same and pass such other and further reliefs.

For Petitioner : Mr.R.Saravanan

For R1 : Labour Court

For R2 : Died

For R3 to R6 : Mr.G.Muruggan

ORDER

This Writ Petition is filed challenging an award passed in in I.D No. 199/2007, dated 16.02.2012.

2. The second respondent is the employee of the petitioner Management. The second respondent died on 20.07.2020. It is submitted that the second respondent attained superannuation in the year 2010. The second respondent was appointed as Packer/Salesman in the petitioner Cooperative Stores. When the petitioner Management

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regularized the workers in the said Co-operative stores, the second respondent was directed to submit his 8th standard school certificate. The second respondent has submitted the bogus certificate and it is admitted that the second respondent has completed only 5th standard. Therefore, a charge memo was issued and the second respondent was placed under suspension, vide order, 18.11.2005. After conducting an enquiry, the petitioner Management had dismissed the second respondent from service. It is seen from the records that the second respondent has put in 22 years of service. The Labour Court has also come to the conclusion that the second respondent has committed serious misconduct. However, the Labour Court has taken into consideration of the fact that the second respondent has put in 22 years of service and the second respondent also attained superannuation in the year 2010 and granted relief, the relevant portion of the Labour Court order is extracted hereunder:

> *"The petitioner involved in serious misconduct. Hence the backwages and other benefits cannot be granted to the petitioner. It is also true that granting of backwages is not a mandatory one. The petitioner is entitled to retirement benefits. Considering the fact and circumstances of the case this Curt is of the view that the petitioner can be*

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given retirement benefits since he has already served for 22 years and the respondent is directed to disburse the eligible retirement benefits and other eligible legal dues to the petitioner. The petitioner is not entitled to any other benefits. The points are answered accordingly."

3. In the meanwhile, the second respondent had died on 20.07.2020 and the legal heirs are impleaded, vide order, dated 09.07.2021.

4. After giving anxious consideration, this Court is of the considered opinion that the Labour Court has taken the issue in a sympathetic way. Hence, this Court is of the considered opinion that the legal heirs are entitled to the retirement benefits. Therefore, this Court is confirming the order of the Labour Court. If the petitioner has not disbursed any retirement benefits, the petitioner Management is directed to disburse the retirement benefits to the legal heirs of the second respondent. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of the copy of the order.

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5. With the above said direction, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.09.2022

Index : Yes / No
Internet : Yes / No
jbr

To

The Presiding Officer,
Labour Court, Madurai.

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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.10722 of 2012

19.09.2022

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