



W.P.(MD).No.17676 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.10.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.17676 of 2013

and

M.P.(MD).No.1 of 2013

1.The Management of Thiruvanaikoil Co-operative
Urban Bank Limited,
Represented by its,
Official Liquidator,
No.5955, Thiruvanaikoil Co-operative Urban Bank Limited,
No.48, Sannathi Street,
Thiruvanaikoil, Trichy.

2.The Liquidator,
No.5955, Thiruvanaikoil Co-operative Urban Bank Limited,
No.48, Sannathi Street,
Thiruvanaikoil, Trichy.

... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Trichy.

2.Natesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the entire records relating to the award dated 24.07.2012 in I.D.No.12 of 2003 on the file of the first respondent and quash the same.



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For Petitioners : No Appearance.
For R-1 : Labour Court.
For R-2 : Mr.S.Muthukrishnan

ORDER

This Writ Petition has been filed to quash the impugned order dated 24.07.2012 in I.D.No.12 of 2003.

2. The petitioners are the Cooperative Urban Bank registered under the Tamil Nadu Cooperative Societies Act. This Writ Petition is filed by the official liquidator who was appointed through proceedings dated 24.12.2002. The second respondent was employed as Clerk. While he was in service, a charge memo dated 20.03.2000 was served on the second respondent for stealing the Cheque bearing No.4535 dated 04.09.1999 and the amount filled in the cheque is Rs.1670/-, thereby, he caused damage to the reputation of the petitioner's Bank. The second respondent submitted explanation on 01.04.2000, since the explanation is not satisfactory, an enquiry was conducted. The second respondent participated in the enquiry and cross examined the petitioner's witnesses. The petitioner examined the witnesses and documents were marked as exhibits. Thereafter the charges



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were held to be proved and the Society vide order dated 31.07.2002 dismissed the second respondent from service. The second respondent raised an industrial dispute before the Conciliation Officer, Trichy which is ended in failure. Thereafter, the second respondent raised the industrial dispute in I.D.No.12 of 2003 before the first respondent. In the I.D., the liquidator was impleaded as one of the respondents. Then the petitioners Bank filed a counter and submitted before the Labour Court that the Society had been wound up by the proceedings dated 24.12.2002 and liquidator had taken charge of the Bank on 26.12.2002. Further submitted that the claim petition is barred under Section 141 of the Tamil Nadu Co-operative Societies Act. However, the first respondent vide impugned order set aside the order of dismissal and directed the petitioners Bank to reinstate the second respondent with continuity of service and backwages with all other benefits. Aggrieved over the same, the present Writ Petition is filed.

3. The respondents relied on the petition filed before the Labour Court and submitted that the petitioner's Society has not granted sufficient opportunity to put forth the case. The second respondent has not stolen the cheque as alleged by the petitioners Bank. Moreover, according to the second respondent, the cheque was misplaced and it was not traceable.



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4. After hearing the rival submissions and perused the records, it is seen that the Labour Court has passed an order dated 24.07.2012, wherein, the petitioner society was directed to reinstate the second respondent with continuity of service with backwages and all other benefits forthwith.

5. When the Writ Petition was taken up for hearing, the second respondent submitted that as on date, the second respondent attained superannuation and therefore, the question of reinstatement will not arise and further submitted that in spite of ordering to grant subsistence allowance, the Management Society had not paid subsistence allowance for the suspension period.

6. Therefore this Court is of the considered opinion based on 'No Work No Pay' principle, the second respondent is not entitled to backwages. Since the second respondent had attained superannuation, there is no question of reinstatement. Therefore, this Court is passing following orders:

i. The Management Bank is directed to pay subsistence allowance, if it is not already paid.

(ii) The Management Bank shall grant continuity of service and pay all terminal benefits to the second respondent.



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(iii) It is made clear that the second respondent is not entitled to any backwages but the second respondent is entitled to only terminal benefits.

7. With the above modification, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

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Index : Yes / No

Internet : Yes

Nsr

To
The Presiding Officer,
Labour Court,
Trichy.



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S.SRIMATHY, J

Nsr

Order made in
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13.10.2022