



W.P.(MD)No.20646 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.20646 of 2015

and

M.P(MD)No.1 of 2015

and

W.M.P(MD)No.3546 of 2019

The Management,
Ramanathapuram District Central Co-operative
Bank Limited,
Represented by its, Managing Director/Joint Registrar. ... Petitioner

vs.

1. R.Subalakshmi
2. The Inspector of Labour,
O/o.Inspector of Labour,
Ramanathapuram. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of *Certiorari*, to call for the records relating to the impugned order passed in Na.Ka.No.A/1540/2014 dated 31.07.2015 by Inspector of Labour, Ramanathapuram, the second respondent herein and quash the same.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi
For R-1 : Mr.J.M.Hassanul Bazari
For R-2 : Mr.C.Baskaran,
Government Advocate

ORDER

This Writ Petition is filed by the Petitioner/Management, challenging the impugned order, dated 31.07.2015 passed in Na.Ka.No. A /1540/2014 by the 2nd respondent/Inspector of Labour, Ramanathapuram.

2. The brief facts as stated in the Writ Petition is that the petitioner is the District Central Co-operative Bank Limited, which was registered under the Tamil Nadu Co-operative Societies Act, and the rules made there under along with By-laws. The service conditions of the employee are in accordance with the special By-laws and the relevant rules.

3. The 1st respondent herein had filed a petition before the Labour Inspector, the Authority under the Tamil Nadu Industrial Establishment



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[Conferment of Permanent Status to Workmen] Act, 1981, Ramanathapuram, claiming that she has been working from 29.04.2009 for nearly 9 years in the petitioner's Bank. After completing one year Apprenticeship training, in the Tapal Section on Daily wages basis and the petitioner was being paid a sum of Rs.300/- per day. The 1st respondent has requested the management to regularize her service. But, the petitioner has not considered the same. Aggrieved over the non-granting of regularization, the 2nd respondent had approached the 1st respondent herein.

4. The contention of the petitioner management is that the 2nd respondent was appointed without adhering to Rule 149 of the Tamil Nadu Co-operative Societies Rules and Special By-laws of the Bank. The Rule 149 of the Tamil Nadu Co-operative Societies Rules mandates that the eligible candidates should be called for from the Employment Exchange and the above Rules contemplates to adhere cadre strength and minimum educational qualification coupled with cooperative training. The petitioner/management should follow the Roster system, while appointing any person in their bank. No such procedure was



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followed and the 1st respondent was simply engaged whenever the requirement arises. Therefore, there is no legal right to the 1st respondent.

5. The further contention of the petitioner is that the Labour Inspector without considering the oral and documentary evidence submitted by the management in proper perspective has passed the impugned order, dated 31.07.2015, directing the management to regularize the 1st respondent w.e.f., 29.08.2007. Aggrieved over the impugned order passed by the 2nd respondent, granting permanency to the 1st respondent from 29.08.2007, the management is before this Court in this Writ Petition.

6. The learned counsel appearing for the 1st respondent submitted that, initially, she was appointed as Apprenticeship and thereafter, taken as Daily Wages basis employee in the Tapal section and she has completed 480 days in 24 English Calendar months, without any break in service. The management ought to have considered the case once the employee completed 480 days under Permanency Act. Since the request of the 1st respondent was not considered, she



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has approached the Labour Inspector and submitted all documents before the Labour Inspector and sought permanency. After considering the documents placed before the 2nd respondent, the Labour Inspector has passed the impugned order. There is no infirmity in the order passed by the Labour Inspector. He further submitted that the Labour Inspector has also considered that the definition of 'Workmen' and is applicable to the 2nd respondent and relied on the order passed by the Division Bench of this Court in the case of ***The Special Officer/Joint Registrar Vs. P.Vasanth and Others in W.A.(MD)No.197 to 199 of 2010, vide order dated 22.03.2010***, has held as follows:

.....

“Having heard the learned counsel for the appellant and the learned counsel for the first respondents, we find that the orders of the second respondent dated 12.05.2009 is unassailable inasmuch as the entry of the first respondents into service of the appellant society, initially, as temporary employees or on daily wages as well as from continuous employment till this date, is not in dispute. In such circumstances, the first respondents having duly satisfied statutory requirement of 480 days of employment in a period of 24 calendar months from the date of their



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commencement of employment and having been satisfied that the second respondent was well justified in having passed the order dated 12.05.2009 directing conferment of permanent status to the respective respondents from 17.9.1997/27.2.2000, we do not find any scope to interfere with the order of the second respondent as well as the order of the learned single Judge in dismissing the Writ Petitions. Even while confirming the orders of the second respondent dated 12.05.2009 and the confirmation of the same by the learned Single Judge, we state that by virtue of such confirmation of employment of the respective first respondents is from 17.9.1997 and 27.2.2000, the respective first respondents in the Writ Appeals will be eligible for emoluments payable as on date to that of a regular employee in the respective category only from 1.1.2010”.

The Hon'ble Division Bench of this Court held that since the employee has completed 480 working days, then permanency ought to be granted to the employee. Therefore, the 1st respondent prayed to dismiss the Writ Petition.



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9. Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.J.M.Hassanul Bazari, learned counsel appearing for the 1st respondent and Mr.C.Baskaran, learned Government Advocate appearing for the 2nd respondent. Perused the material documents available on record.

10. This Court considered the rival submissions. In *Justin's* case the issue was to consider the appointment of employees from the year 1982 to 2001 and thereafter the existing employee were directed to be regularized. Thereafter the Rule 149 of the Tamil Nadu Co-operative Societies Rules and Co-operative Societies By-laws were framed which is a mandatory provision. Therefore, any appointment made without following the mandatory provisions cannot be claimed for regularization. Admittedly, the 1st respondent was appointed in the year 2006, that too as Apprenticeship. Therefore, the claim of the 1st respondent seeking regularization cannot be considered now.

11. At this juncture the learned counsel appearing for the petitioner/management submitted that the 1st respondent did not turned up to duty,



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from the year 2014 onwards and if there is any remedy, then the 1st respondent ought to raise 2(A) issue before the Labour Court. In such circumstances, the only relief, the 1st respondent is entitled to some compensation for which she had worked in the petitioner/management. Considering the facts and circumstances, this Court is of the considered opinion that the only relief the 1st respondent is entitled to is compensation.

12. Accordingly, the impugned order passed by the 2nd respondent is set aside. The petitioner/management is directed to pay a sum of Rs.50,000/-, as compensation to the 1st respondent. It is made clear that the 1st respondent is not entitled any permanency. With the above directions, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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To

The Inspector of Labour,
O/o.Inspector of Labour,
Ramanathapuram.



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S.SRIMATHY, J

ksa

Order made in
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