



WEB COPY



W.P.No.15435 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.15435 of 2013

Tamilnadu State Transport
Corporation (Salem Division-II)
Employees' Cooperative Stores
Limited, D.D.156, Rep.by the
Administrator, Bharathipuram
Salem Main Road, Dharmapuri-5.

.... Petitioner

-Vs-

- 1.The Presiding Officer
Labour Court, Salem.
- 2.The General Secretary
Salem, Dharmapuri, Erode
Namakkal Transport and General
Employees' Union, No.21, Vivekanandar
Street, Salem-7.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records of the 1st respondent pursuant to the award passed in I.D.No.169/2007 dated 06.11.2012 and quash the same.

For Petitioner : Mr. M.S.Palaniswamy

For Respondents : R1 – Court
R2 – Served, No appearance



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ORDER

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The 2nd respondent union represents the interest of the workman one Ravi. The workman was working as daily rated employee on the rolls of the Tamil Nadu State Transport Corporation Employees Cooperative Stores (Management). He was drawing daily wages from 1991 onwards. The Government issued an order in G.O.Ms.No.86, Cooperative Food and Consumer Protection Department dated 12.03.2001 regularising the service of those employees like Ravi, who had completed 480 days of his continuous service in any cooperative society. Accordingly, Ravi was regularised as a clerk.

2. It is the argument of Mr.M.S.Palaniswamy learned counsel for the petitioner that the regularisation was subject to the order challenging G.O.Ms.No.86 dated 12.03.2001. The G.O., ended in a verdict holding, any daily rated employee who had been appointed contrary to the Rules is not entitled to be regularised. This was in **L.Justine and another -Vs- Registrar of Cooperative Societies** reported in **2002 W.L.R. 876** which was subsequently confirmed by the Supreme Court in **Uma Rani' -vs- Registrar, Cooperative Society and Another** reported in **(2004) 7 Supreme Court Cases 112**.

3. Mr.M.S.Palaniswamy would submit that Mr.Ravi had not been appointed pursuant to a sponsor made by the Employment Exchange and therefore he is



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not entitled for the regularisation which had been granted and cannot claim on par with the other employees who had been similarly situated.

4. This being an industrial dispute, was referred to the labour Court in I.D.No.169 of 2007. A plea that has been raised by the Management is that the Union cannot represent the interest of the worker. I am unable to agree to this contention because, Section 2(K) of the Industrial Disputes Act enables a workman to be represented by a Union. The labour Court had gone into the issue whether the workman satisfied the requirements of Rule 149 of the Tamil Nadu Cooperative Societies Act and had come to the conclusion that he does so. It also took note of the fact that Ravi had subsequently been regularised in service as a clerk and therefore the argument of the Management was not accepted by it.

5. I do not find any illegality or irregularity in the order. The workman had not only been granted regularisation, but had also been given the posting of Clerk. Once he is regularised, he is entitled for the same perks as the other employees who are similarly situated. Any differential pay between the workman and those similarly situated would offend the principle of 'equal pay for equal work' and therefore, the labour Court had rightly come to the conclusion and allowed the industrial dispute. No other points being urged and finding no merits



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in the writ petition, this writ petition deserves to be dismissed. Accordingly, it is dismissed. No costs.

20.06.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

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V. LAKSHMINARAYANAN, J.

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