



W.P.No.19599 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23.01.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.19599 of 2007

The Management,
Pottiyapuram PACB Ltd.
Pottiyapuram,
Omalur Taluk,
Salem District

.... Petitioner

vs

1. The Presiding Officer,
Labour Court,
Salem.
2. The General Secretary,
Salem Divisional All Workers Union,
44-A, Mariamman Koil Street,
Balaji Avenue,
Hasthampatty,
Salem - 7.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the award of the 1st respondent dated 29.12.2005 in I.D.No.128 of 2002 and quash the same.

For Petitioner : Mr.K.Selvaraj

For respondents : R1-Court
Mr.K.V.Shanmuganathan for R2



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ORDER

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This writ petition has been filed challenging the award passed by the 1st respondent/Labour Court in I.D.No.128 of 2002 dated 29.12.2005, by which, the petitioner Management was directed to regularise the service of the claimants, viz., Periasamy and Nallamuthu and pay the benefits to them.

2. The brief facts of the case are as follows:

The 2nd respondent Union raised an Industrial Dispute in I.D.No.128/2002 before the 1st respondent for regularisation of the jewel appraiser of the Bank, viz., A.Periyasamy and Night Watchman of the Bank, viz., Nallamuthu in the Bank services. The petitioner has engaged a counsel and filed the counter statement in I.D.No.128/2002. When the I.D. was listed for hearing on 29.12.2005, the Secretary of the Bank, who was conducting the case, could not attend the Court due to illness and he had instructed the Clerk of the Bank to inform the counsel to defend the case. Since the clerk went to court very late, he could not contact the counsel and hence, an exparte award was passed against the Bank on 29.12.2005. Thereafter, the petitioner Management filed I.A.No.306 of 2006 to set aside the exparte award and the same was also dismissed on 12.12.2007 as it was reported 'no instruction'. The petitioner has got a valid and legal defence in



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the I.D. since the employees have been illegally appointed by the then Board of Directors against the provisions of Rule 149 of the Tamil Nadu Co-operative Societies Rules, 1998. Hence, this writ petition, seeking the aforesaid relief.

3. Heard the learned counsel for the petitioner and the learned counsel appearing for the 2nd respondent Union and perused the materials available on record.

4. From the perusal of the record, it clearly shows that several opportunities have been given to the petitioner Management herein to prosecute the case before the Labour Court. Initially, an exparte award was passed on 30.09.2002, against which, the petitioner herein filed I.A.No.285 of 2003 to set aside the same. In order to give an opportunity to the petitioner, the Labour Court was pleased to set aside the exparte award on 26.08.2003. Subsequently, when the I.D. was posted for hearing, there was no representation for the Management. Therefore, the Labour Court had observed that though the Management appeared through counsel and filed counter, they did not turn up to prove their case and hence, the Labour Court issued a direction to the Management/petitioner herein to regularise



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the service of the claimants.

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5. The petitioner's only contention is that the counsel who was engaged before the Labour Court did not prosecute the case properly. The said contention of the petitioner cannot be accepted. Indeed, after the exparte award was passed initially, on 30.09.2002, the petitioner ought to have been vigilant in prosecuting their case. Even subsequent to the setting aside of the exparte award, it could be seen that the petitioner Management was not diligent in prosecuting the case. The impugned order discloses that the petitioner was given adequate opportunity to defend their case. The explanation given by the petitioner is that the counsel who was appointed by the Management did not attend the Court and prosecute the case in a proper manner. The petitioner was negligent in prosecuting their case and the explanation submitted by them is unsatisfactory. The inaction and lethargic attitude of the petitioner cannot be condoned.

6. Further, it is also stated by the learned counsel for the 2nd respondent Union that the claimants are enjoying the benefit of the award and therefore, this Court is of the opinion that the same need not be interfered with. The conduct and attitude of the petitioner itself would



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establish that the petitioner was not diligent enough in prosecuting the case in a proper manner.

7. In view of the above, this Court holds that no grounds have been made out warranting interference with the exparte award passed by the Labour Court. Therefore, the Writ Petition fails and the same is dismissed. No costs.

23.01.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

To

The Presiding Officer,
Labour Court,
Salem.



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J.NISHA BANU,J.

vsi

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