



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.16145 of 2012

A.Shanmugham

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Coimbatore.

2. K – 1755, Kavundampalayam Primary
Agricultural Co-operative Credit Society,
Rep. by its Special Officer,
Kavundampalayam,
Ganapathipalayam Post,
Veerapandi Via Palladam.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the award dated 05.01.2012 made in I.D.No.69 of 1998 on the file of the first respondent, quash the same and consequently direct the second respondent to reinstate the petitioner with backwages from the date of the suspension order.

For Petitioner : Mr.N.Manokaran

For R1 : Court



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For R2

: M/s.T.S.Gopalan

ORDER

This Writ Petition has been filed questioning the validity of the award dated 05.01.2012 passed in I.D.No.69 of 1998 on the file of the Labour Court, Coimbatore wherein the petitioner herein was found to be not a workman within the meaning of the Section 2(s) of the Industrial Disputes Act, 1947 and thus, it was held that the industrial dispute was not maintainable before the Labour Court.

2. When the matter is taken up for consideration, the learned counsel for the petitioner fairly brought to the notice of this Court that the learned Single Judge of this Court in the order dated 08.07.2019 in W.P.No.171 of 2012 has been pleased to hold that the Secretary of the Co-operative Society would fall within the meaning of an office under Section 219 of the Tamil Nadu Co-operative Societies Act, 1983, but not a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947.

3. The relevant paragraph of the said order reads as under:



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“ 11. A reading of the said Section clearly shows that the Secretary of the Society is an Officer of the Society. He has to maintain the registers of the Society. The 1st respondent in his petition filed before the 2nd respondent raising Industrial Dispute has stated that he was working as a Secretary till 31.07.1998 and he has signed cheques for payment to members and the same have been encashed from Cooperative Central Bank, Erode. The person who is authorized to sign cheques for payment to the member who supply milk to the Society cannot be termed as a clerk. Considering Section 2 (19) of the Tamil Nadu Co-operative Societies Act and admission of the 1st respondent that he was signing cheques and issuing the cheques to the members for the milk supplied to them clearly shows that he was discharging managerial function and the 2nd respondent erred in holding that the 1st respondent was only a clerk and the petitioner Society has not been able to discharge the burden that the 1st respondent is not a workmen and erred in holding that the 1st respondent is a workman. The 2nd respondent/ Labour Court has not considered Section 2 (19) of the Tamil Nadu Cooperative Societies Act, 1983, while deciding the issue whether the 1st respondent is a workmen or not.”



In the light of the above, this Court does not find any error or illegality in the impugned award passed by the learned Labour Court. Accordingly, this Writ Petition is dismissed. The learned counsel for the petitioner sought liberty to the petitioner to pursue the remedy before the appropriate forum in accordance with law. The learned counsel appearing for the respondent no.2 strenuously opposed the request made by the learned counsel for the petitioner on the ground that the petitioner ought to have availed the appropriate remedies immediately after passing of the impugned award and contended that the petitioner cannot be permitted to pursue the other remedies at this length of time.

4. In the light of the above, this Court having considered the above submissions, is of the considered view that the petitioner cannot be left remedy less and who has been continuously pursuing the grievance earlier before the learned Labour Court and thereafter, before this Court. The matter is pending before this Court for more than a decade and for that, the petitioner cannot be blamed and he shall not be left with no remedy against the grievance that he intend to pursue. While dismissing this petition, the petitioner is granted liberty to pursue the remedies otherwise available to him



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under law and the time that is consumed in the proceedings before the learned Labour Court and before this Court shall stand excluded in the event the petitioner initiates any such proceedings in accordance with law.

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5. Accordingly, this Writ Petition is dismissed subject to observations made above. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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Agricultural Co-operative Credit Society,
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MUMMINENI SUDHEER KUMAR, J.

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