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W.P.No.29283 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.29283 of 2005
and MP.Nos.17191 of 2006 and 32039 of 2005

The Management,
Sathiyamangalam Primary Agricultural
Co-operative Bank Ltd., rep.by
its Special Officer,
Valabadi, Salem District.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. R. Davagai

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Certiorari, calling for the records of the first respondent herein made in I.D.No.461 of 2000 dated 25.02.2002 and quash the same.

For Petitioners : Mr.M.S.Palaniswamy

For Respondents : Mr.K.Selvaraj for R2



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ORDER

The Petitioner Co-operative Bank has come forward with this writ petition challenging the order passed by the Labour Court in I.D. No.461 of 2000 filed by the workmen/second respondent herein whereby the award is passed directing the Co-operative Bank to reinstate the employee into service with backwages and continuity of service. Aggrieved by the said award, the petitioner Co-operative Bank has filed this writ petition.

2. The second respondent/workmen was appointed as daily wages employee from 19.10.1995. In view of the 18(1) settlement entered into between the Labour union and the Management on 17.01.1999, second respondent-workman's salary was fixed as per the time scale of pay and he was made permanent. However, without any charge memo, without notice, the second respondent was suspended and thereafter, the petitioner management without following the natural principles of justice, dismissed her from service. Aggrieved by the same, the second respondent taken the issue before Labour Court u/s.25-F of the I.D.Act.

3. The Petitioner-Management filed written statement before the



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Labour Court and contended that the second respondent-workman was not appointed through Employment Exchange and her appointment was not approved by the Cooperative department, therefore, pre notice for suspension and dismissal is not necessitated.

4. The Labour court, after detailed analysis of pleadings, written statement, oral and documentary evidence, determined the issue for consideration that as to whether the workman is eligible for reinstatement along with backwages.

5. The Labour court found that the employment of second respondent as Clerk was regularised under 18(1) settlement and she was brought under new scale of pay. The petitioner management, on the basis of recommendation from Deputy Registrar, dismissed her from service without any notice and without issuance of any charge memo.

6. The Labour court further observed that the second respondent-workman was benefited from the 18(1) settlement entered between the Labour Union and the Management and therefore, the termination made pursuant to the



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direction of the Joint Registrar is not in accordance with the provisions of Section 25F of the I.D.Act. The Labour court pointed out that Section 25F of the Act says that workman employee in any industry who has been in continuous service for not less than one year under an employer and therefore, the factum of employment is relevant and not the legality or otherwise of it. The Labour court, given a finding that the dismissal order passed by the management as against the second respondent-workman is against the provisions of Section 25F of I.D.Act and also contrary to Section 18(1) settlement. Thus, the Labour court, set aside the dismissal order and directed the management to reinstate the second respondent-workman into service with backwages and continuity of service.

7. Heard both sides and perused the materials available on record.

8. At this distant point of time, this Court is of the view that the direction of the Labour court cannot be implemented for various reasons and therefore, the petitioner/ Co-operative Bank is directed to pay a compensation of Rs.50,000/- (Rupees Fifty Thousand Only) to the second respondent within a period of four weeks from the date of receipt of a copy of this order.



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9. In the result, the writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes /No

Speaking /Non-Speaking order

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dpq

To

1. The Presiding Officer,
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