



W.P.No.3478 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

W.P.No.3478 of 2020

K.Udhayakumar

... Petitioner

..Vs..

The Management
S.451 Karuppur Primary Agricultural
Cooperative Credit Society,
Karuppur Post - 636 102.
Omalur Taluk,
Salem District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the orders dated 30.09.2019 in I.D.No.124/2016 passed by the Presiding Officer, Labour Court, Salem and to quash the same.

For Petitioner : Mr.G.Punniakoti

For Respondent : Ms.P.Vijayadevi, GA

ORDER

The writ petitioner was appointed as a Night Watchman with the respondent / Karuppur Primary Agricultural Cooperative Credit Society as a daily wager on 09.10.2012. According to the writ petitioner,



he was not permitted to sign the Attendance Register from 28.08.2015 and subsequently on 01.09.2015, he was orally terminated from service by the respondent Management. It is his further contention that since he was working for more than 480 days continuously in 24 calendar months, the order of dismissal passed by the respondent Management is illegal. He therefore raised an Industrial Dispute in I.D.No.124/2016 under Section 2A(2) of the Industrial Disputes Act, 1947 before the Presiding Officer, Labour Court, Salem.

2. The respondent Management filed a detailed counter in which *inter alia* it is stated that the writ petitioner was appointed only on daily basis and that as per the circular issued by the Registrar of Tamil Nadu Co-operative Societies and the Tamil Nadu Co-operative Societies Act, 1983, a person can be appointed in any post only through Employment Exchange. According to them, the petitioner was appointed through a Private Security Agency since his father was working as a Secretary in the respondent Co-operative Society.



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3. The Labour Court after considering the oral / documentary evidence adduced on both sides dismissed the claim made by the petitioner vide its orders dated 30.09.2019. Aggrieved over the same, the present writ petition is filed.

4. Mr.G.Punniakoti, learned counsel for the writ petitioner would contend that the writ petitioner is working from the year 2012 and therefore, he must be reinstated into service as a Night Watchman.

5. Per contra, Ms.P.Vijayadevi, learned Government Advocate for the respondent contended that the Presiding Officer had passed a well reasoned order after analysing all the aspects of the case and therefore, no interference is warranted.

6. It is seen from the records that the writ petitioner was not appointed through Employment Exchange and he was appointed through a Private Security Agency since his father was the Secretary of the Society. Moreover, the writ petitioner himself had admitted before the



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Labour Court that his salary was paid on daily basis. As per G.O.Ms.No.131 dated 04.08.1999 issued by the Department of Co-operative, Food and Consumers, there is only one post for Night Watchman and the same can be filled up only through Employment Exchange as per the circular issued by the Registrar, Tamil Nadu Co-operative Societies. Since the present writ petitioner has not been appointed through Employment Exchange he cannot claim any benefit under Section 2A(2) of the Industrial Disputes Act. Moreover, he has not also proved that he was continuously working for a period of 480 days in 24 calendar months by adducing acceptable evidence. In the circumstances, I do not see any reason to interfere with the orders passed by the Labour Court.

Accordingly, this Writ Petition is dismissed. No costs.

12.12.2023

Index : Yes/No
Internet : Yes/No

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R. HEMALATHA, J.

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To

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