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W.P.Nos.26960 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.26960 of 2016
and
W.M.P.Nos.23179 of 2016

The Management
Namakkal Co-operative Urban Bank Ltd.,
Rep. By its Managing Director,
No.47, Rangar Sannathi Street,
Namakkal.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.

2. The Secretary,
Socialist Employees Union,
No.1, Sarojini Street,
New Siddapudur,
Coimbatore.

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the award in ID.No.12 of 2007 dated 21.11.2012 and consequential order in IA.No.419 of 2014 in ID.No.12 of 2007 dated 24.08.2015 on the file of the first respondent and quash the same.



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For Petitioner : Mr.M.S.Palaniswamy

WEB COPY For Respondents : Mr.K.Sathiya Murthy R2

ORDER

The petition has been filed seeking to quash the award in ID.No.12 of 2007 dated 21.11.2012 and consequential order in IA.No.419 of 2014 in ID.No.12 of 2007, dated 24.08.2015 on the file of the first respondent.

2. It is the case of the petitioner Management that one Vijayakumar is the employee of the petitioner Bank and he committed various irregularities in the Bank and he was suspended from service on 12.02.1993. Charge memo was issued to him on 09.03.1993 and he submitted his explanation on 16.04.1993. The petitioner, after following due procedure, pass a final order dated 17.07.1993, in which, a punishment of stoppage of increment for two years with cumulative effect was imposed. After lapse of 13 years, the second respondent herein took up the case of the said Vijayakumar, raised a dispute in ID No.12 of 2007 before the first respondent. Due to non appearance of the petitioner, the ID was set exparte on 21.11.2012 and passed an award in favour of the second respondent. The petitioner filed a petition to condone the delay of 686 days to set aside the exparte award. The first respondent, by its order dated 24.08.2015, dismissed the IA stating that the petition is filed after



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lapse of two years. Challenging the said order, the petitioner Bank has filed the present writ petition.

3. The learned counsel for the petitioner Bank submitted that admittedly, the second respondent raised an Industrial Dispute before the first respondent in the year 2007 and an award was passed in the year 2012. However, the petitioner Society filed an IA in the year 2014 with a delay of two years and the same was also dismissed.

4. The learned counsel further submitted that the order of punishment of stoppage of increment was passed against the individual in the year 1993 and after lapse of 14 years, the second respondent has approached the Labour Court in the year 2007. However, the first respondent, without considering the huge delay and without properly appreciating the evidence, mechanically passed the present impugned order, which is unsustainable one.

5. The learned counsel for the petitioner further submitted that during pendency of this writ petition, the said Vijayakumar passed away in the year 2023. Even this Court remands the matter back to the authorities, it may not



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serve any useful purpose. Therefore, this Court may set aside the impugned order and allow the writ petition.

6. The learned counsel for the second respondent submitted that the second respondent has raised the industrial dispute before the first respondent and got an order in their favour and the second respondent has properly explained the delay occurred. Therefore, the Labour Court has rightly passed an award which need not any interference.

7. Heard the learned counsel for the petitioner and the learned Counsel for the second respondent and perused the materials available on record.

8. The facts of the case are not in dispute. Admittedly, an Individual viz., Vijayakumar was imposed a punishment of stoppage of increment for two years in the year 1993 and therefore, the second respondent Union raised an Industrial Dispute before the first respondent in the year 2007 and the first respondent also passed an order in favour of the individual.

9. It is an admitted fact that the second respondent Union raised an



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dispute in the year 2007 whereas the order of punishment for stoppage of increment was passed in the year 1993 and the delay in raising the dispute was not properly explained by the second respondent.

10. This Court perused the original records. On perusal of the same, it is seen that the second respondent has not adduced any records or evidence for the delay in raising the dispute and the Labour Court has also not properly stated the reason for condoning the delay and therefore, this Court has to necessarily interfere with the impugned order passed by the first respondent.

11. Accordingly, the impugned order dated 21.11.2012 passed by the first respondent is hereby set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed. However, the legal heirs of the individual viz., Vijayakumar are entitled to get other benefits.

10.07.2023

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Index : Yes / No

Speaking order / Non speaking order

Netrual Citation Case : Yes / No

M.DHANDAPANI, J.



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To

The Presiding Officer,
Labour Court, Salem.

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