



W.P.No.22219 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.22219 of 2014

R.Sundararajan

... Petitioner

-Vs-

1. The Presiding Officer,
The III Additional Labour Court,
Chennai – 104.

2. The Management,
The Tamil Nadu Co-Operative Marketing
Federation Limited,
Rep.by its Special Officer,
No. 91, St.Marys Road,
Chennai – 600 018.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records in proceedings in Order in Claim Petition No. 174 of 2009, dated 29.01.2014, on the file of the first respondent and quash the same as illegal, incompetent and unconstitutional and further direct the second respondent to issue the arrears of dearness allowance to the petitioner as per the settlement effected between the petitioner and the second respondent in C3/11641/2001, dated 19.02.2001.



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For Petitioner : Mr.S.Ajapanateswaran
for Mr.A.R.Nixon
For Respondents
R1 : Labour Court
R2 : Mr.L.P.Shanmugasundaram

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in Claim Petition No.174 of 2009, dated 29.01.2014, thereby rejected the claim of the arrears of Dearness Allowance to the petitioner as per the settlement dated 19.02.2001.

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

3. The petitioner had joined the post of Electrical Operator in the second respondent Management and he had attained the age of superannuation on 31.07.2013. The Memorandum of Settlement was effected between the second respondent and the employees association under Section 12(3) of the Industrial Disputes Act, 1947 dated 19.02.2001. Accordingly, the second respondent had agreed to revise the basic pay and dearness allowance with effect from 01.04.1998. So far, the second respondent failed to implement the settlement which was arrived between them. Therefore, the petitioner was not paid any



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Dearness Allowance as agreed by the second respondent. Therefore, he filed a claim petition before the first respondent and the same was dismissed. Hence, this petition.

4. The learned counsel for the petitioner would submit that even according to the counter filed by the second respondent, the second respondent had been under loss and as such they could not pay the Dearness Allowance and it was stopped with effect from 01.10.2002. That apart, the first respondent dismissed the claim petition on the ground of laches. However, the petitioner is entitled for Dearness Allowance as per the settlement arrived between the second respondent and the Management.

5. A perusal of the counter filed by the second respondent revealed that as per the settlement, Clause No.7(b), variable Dearness Allowance was paid with effect from 01.04.1998 upto 30.06.2002. However, from 01.07.2002, the Dearness Allowance as per the settlement was not paid, since the second respondent federation was under heavy loss to the tune of Rs.14.02 Crores as on 31.03.2002. Therefore, it was stopped with effect from 01.10.2002. However, the petitioner submitted his claim after a period of seven years and the delay was not properly explained by the petitioner with sufficient records.



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That apart, the Memorandum of Settlement dated 19.02.2001 relied upon by the petitioner was effected from 01.04.1998 to 31.03.2003. As per the agreement, there is no recital for the continuance of the benefits, even after the expiry date. Further, the service conditions of the employees of the Tamil Nadu Co-operative Marketing Federation Limited are governed by the Tamil Nadu Co-operative Societies Act, 1983, the rules made hereunder and special by laws relating to the service conditions of the employees of the federation and orders issued by the Government or the Registrar of Co-operative Societies from time to time.

6. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent in Claim Petition No. 174 of 2009, dated 29.01.2014 and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this Writ petition stands dismissed. No costs.

04.08.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The Presiding Officer
The III Additional Labour Court,
Chennai – 104.
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The Management
The Tamil Nadu Co-Operative Marketing
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