



W.P.No.22685 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	19/12/2023
Delivered on	22/12/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.22685 of 2014

The Management, I.I.576
Arcot Primary Agricultural Co-operative
Bank Limited
rep. By its Secretary
Arcot Post
Thirukoilur Taluk
Villupuram District ... Petitioner

Vs

1. The Presiding Officer
Labour Court
Cuddalore.
2. M.Bakthavatchalam ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari to call for the records relating to the order passed by the first respondent in C.P.No.1 of 213 dated 7/5/2014 and quash the same.



W.P.No.22685 of 2014

For petitioner ... Mr.S.Parthasarathy
For respondents ... Mr.K.Arunagiri
for R.2
R.1 – Labour Court

ORDER

This writ petition is filed seeking to quash the order passed in Claim Petition No.1 of 2013 on the file of the first respondent/Labour Court, Cuddalore.

2. The facts which led to the filing of this writ petition are that the second respondent was appointed as a Clerk on 1/3/1991 on a casual basis at the petitioner Primary Agricultural Co-operative Bank Limited. He has raised an Industrial Dispute in I.D.No.95 of 1996 on the file of the first respondent seeking to regularize his services with effect from 1/3/1991 with all backwages and monetary benefits, on the ground that he has worked for a period of 4 ½ years as Manager in Vegetable Farmers Co-operative Society. The claim of the second respondent was contested in the Industrial Dispute. On 21/1/1999, the first respondent has allowed the I.D and passed the award, directing the petitioner Society to regularize the services of the second respondent with all backwages.



W.P.No.22685 of 2014

3. The second respondent, basing on the orders passed in I.D.No.95 of 1996, has filed C.P.No.126 of 1999, claiming a sum of Rs.2,96,840/- towards arrears of wages and the same was allowed on 27/3/2001. Aggrieved by the same, the petitioner has preferred W.P.No.13889 of 2001. The said writ petition was dismissed, thereby, all the arrears were paid by the petitioner to the second respondent. The second respondent has filed C.P.No.58 of 2001 on the file of the first respondent claiming Rs.50,181/- towards arrears of salary for the period from August 1999 to 2001. The said C.P was also allowed.

4. The second respondent has also filed a Claim Petition No.11 of 2008 claiming arrears of salary to the tune of Rs.1,83,279/- and E.P.F amount for the period from August 2001 to February 2008. The said C.P was allowed on 8/1/2011, directing the petitioner to pay arrears of salary. The petitioner has filed W.P.Nos.32819 and 32820 of 2012 and both of them were closed in view of the payments made by the petitioner to the second respondent.

5. The second respondent has filed C.P.No.1 of 2013 seeking arrears of salary from 1/3/2008 to the tune of Rs.2,63,865/-, towards arrears of



W.P.No.22685 of 2014

salary of Rs.2,28,894/-, towards E.P.F arrears Rs.22,448/- and towards encashment of earn leave salary of Rs.12,443/-. The said petition was contested by the petitioner by way of filing counter. The said petition was allowed directing the petitioner to pay Rs.1,65,342/-. Aggrieved by the same, the present writ petition is filed on the ground that the first respondent has failed to note that basic salary of the second respondent is only Rs.3,745/- and not entitled for any increments. The second respondent has filed C.P without any representation to the petitioner Management.

6. Heard Mr.S.Parthasarathy, learned counsel for the petitioner and Mr.K.Arunagiri, learned counsel for the second respondent.

7. Along with this writ petition, petitioner has filed M.P.No.1 of 2014, to stay all further proceedings in C.P.No.1 of 2013 dated 7/5/2014 passed by the first respondent, pending disposal of the instant writ petition, on 28/4/2016, this Court has passed the following order:-

“The order of interim stay, granted on
21/8/2014 is made absolute, subject to the



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W.P.No.22685 of 2014

condition that the petitioner/Management shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of C.P.No.1 of 2013, on the file of the Labour Court, Cuddalore, within a period of eight weeks from the date of receipt of a copy of this order, failing which, the stay shall stand vacated, automatically, without reference to this Court. On such deposit, the second respondent/workman is entitled to withdraw the entire amount by filing appropriate application before the Labour Court, Cuddalore.”

8. There is no dispute that the second respondent was originally appointed by the petitioner on a casual basis on 1/3/1991 and he has raised an Industrial Dispute in I.D.No.95 of 1996 seeking to regularize his service from 1/3/1991 with all backwages and monetary benefits alleging that he has worked for more than 480 days continuously and the said petition was allowed on 21/1/1999 by the first respondent, directing



W.P.No.22685 of 2014

the petitioner to regularize the services of the second respondent with backwages.

9. Basing on the said Award passed on 21/1/1999 the second respondent has filed C.P.No.126 of 1999 claiming Rs.2,96,840/- towards arrears of wages and the same was allowed on 27/3/2001 and the petitioner has paid all the arrears.

10. The second respondent has filed C.P.No.126 of 1999 seeking arrears of salary and other monetary benefits and same was also allowed and the first respondent has paid the money, as directed towards arrears of salary to the second respondent.

11. The present writ petition is filed aggrieved by the orders passed in C.P.No.1 of 2013, which was filed by the second respondent seeking arrears of salary etc., from 1/3/2008, on the ground that one Raja who was appointed along with the second respondent was promoted and he has been getting higher salary, thereby, the petitioner should also be paid the similar salary. The second respondent has also mentioned in the Claim Petition that salary is not being paid to him regularly.



W.P.No.22685 of 2014

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12. Considering the pleadings, in C.P.No.1 of 2013, the first respondent/labour Court has framed the issue as to whether the second respondent was entitled to the salary that is being paid to Raja. When the Court has ordered regularization of the services of the second respondent, after extensive discussions in respect of the salary as claimed by the second respondent on par with Raja. The labour Court has rejected the claim of the second respondent holding that Raja being the senior to the second respondent was promoted to higher cadre, thereby, he has been getting more salary than the second respondent and hence the salary that is being received by Raja, cannot be claimed by the second respondent. The said finding has become final as second respondent has not preferred any writ petition, aggrieved by the same.

13. On going through the award of the labour Court and also the affidavit filed by the petitioner, it is clear that the petitioner has not denied the statement of the second respondent relating to salary drawn by him. However, the labour Court has rightly observed that computation of arrears of salary made by the second respondent required to be corrected and the same was computed at Rs.1,65,342/-.



W.P.No.22685 of 2014

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14. The first respondent Tribunal has taken the pains of calculating the difference of salary already paid and ought to have been paid to the second respondent which ultimately resulted into Rs.1,51,773/-. In respect of Provident Fund, first respondent has deducted the claim of the second respondent stating that in case if the second respondent is having any grievance, he has to approach the concerned authorities under Employees Provident Fund Act. The first respondent Tribunal has also taken the pains to compute the difference between the salary paid in lieu of 15 days E.L and also the salary to be payable to the petitioner during 2008 to 2012 which ultimately calculated at Rs.1,65,342/-. The first respondent during the course of enquiry, marked 13 documents on behalf of the second respondent and on the side of the petitioner, marked two documents. The second respondent alone was examined as P.W.1 whereas the petitioner was examined as R.W.1.

15. Therefore, on going through the entire record, this Court does not find any irregularity or perversity in the finding of the first respondent in coming to the conclusion that the petitioner has also even in this affidavit filed along with the writ petition did not file any ground which worth



W.P.No.22685 of 2014

mentioning which opposes the order passed by the first respondent. In view of the above, order dated 7/5/2014 passed by the first respondent in C.P.No.1 of 2013 cannot be intervened.

16. In the result, this writ petition is dismissed. However, the petitioner is directed to pay the amount due to the second respondent, less the amount of Rs.1,00,000/- already deposited by the petitioner to the credit of C.P.No.1 of 2013, on the file of the Labour Court, Cuddalore, as expeditiously as possible, not later than eight weeks, from the date of receipt of a copy of this order. No costs.

22/12/2023

mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

1. The Presiding Officer
Labour Court
Cuddalore.

Dr.D.NAGARJUN,J



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W.P.No.22685 of 2014

mvs.

Pre-delivery order made in
W.P.No.22685 of 2014

22/12/2023