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W.P.No.7007 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.7007 of 2016
and W.M.P.No.6216 of 2016

1.M.Saromani
2.K.Sugumar
3.K.Thangavel
4.V.Sivalingam
5.K.Sundarajan

.. Petitioner

VS

1.The Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode,
Namakkal District.

2.No.4019, Mallasamudram Primary
Agricultural Co-operative Credit Society Ltd.,
Rep. By its President,
Mallasamudram,
Tiruchengode Taluk,
Namakkal District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the order of the 1st respondent in Na.Ka.No.1882/2015/Tho.Va.Se(1) dated 06.10.2015 and consequential order of demotion passed by the 2nd respondent dated 12.02.2016 quash the same.

For Petitioner : Mr.P.K.Shiva Kumar

For Respondents : Mr.S.Ravi Kumar
Special Government Pleader
for R1
Mr.R.Bala Ramesh for R2



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ORDER

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Writ petition has been filed in the nature of a certiorarified mandamus seeking interference with the order of the first respondent, Deputy Registrar of Co-operative Societies, Tiruchengode Circle at Namakkal in Na. Ka. No. 1882 / 2015 / Tho. Va.Se(1) dated 06.10.2015 and consequential order of demotion from the post of Clerk to the post of Salesman passed by the second respondent dated 12.02.2016.

2. In the affidavit filed in support of the writ petition, it had been stated that the petitioners had been appointed as Salespersons on 17.02.1989, 10.06.1991, 01.05.1999 and 16.12.2009 respectively. They were subsequently promoted to the post of Clerk. They continued their service as Clerks for a period of four years. The salaries were also fixed in view of the Government Orders and bye-laws of the society.

3. Thereafter, a settlement was reached under Section 12 (3) of the Industrial Disputes Act, 1947 between the petitioners and the second respondent before the Labour Officer at Salem on 04.03.2014. The terms of the settlement were approved and accepted by the first respondent. It is claimed that the petitioners



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are drawing salary in accordance with such settlement reached under Section 12 (3) of the Industrial Disputes Act, 1947. Any settlement reached under the above provision, namely, Section 12(3) of the Industrial Disputes Act, 1947, should be put into effect as it is a one to one settlement reached between the workmen, in the present case, the petitioners herein and the employer, namely the second respondent.

4. It is not a settlement in rem but a settlement with respect to the individual service condition of that particular workman. The petitioners herein were Clerks and the Labour Officer at Salem had acted as a conciliator and had brought about that particular settlement. The said settlement is binding on the employer. In the instant case, the employer had acted upon the said settlement and the learned counsel for the petitioner states that the petitioners are drawing salary in the post as Clerks with effect from the date of settlement / 04.03.2014.

5. In the mean while, there was an inspection under Section 82 of the Tamilnadu Co-operative Societies Act, 1983 and consequent to such inspection, it had been directed that the petitioners herein, who had been promoted as Clerks, were



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wrongfully promoted as Clerks and they should be reverted back to the post of Salesperson. Claiming that this particular order was passed without any notice to them, the present petition has been filed seeking interference of that particular order.

6. A perusal of the impugned order shows that the order had been passed without giving an opportunity to the petitioners of being heard. Had they been heard, they would have brought it to the notice of the respondent nos. 1 and 2 about the settlement which had been reached and orders passed by the Labour Officer at Salem on 04.03.2014.

7. The impugned order passed does not refer to the particular settlement also. The settlement overrides any other report either of the first respondent or of the second respondent till is set aside and interfered with in the manner known to law. There are no records produced that it has been so re-examined or revisited, in the manner known to law. Therefore, the impugned order reverting the petitioners back to the post of Salesperson, would necessarily have to be set aside by this Court and it is set aside. The said order is set aside not only on the issue that notices were not served to the petitioners but also on the ground that there



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is no reference to the settlement under Section 12(3) of the Industrial Disputes Act, 1947 in the settlement order.

8. It is stated by learned counsel for the petitioners that the petitioners are, however, receiving salaries in their post as Clerks. Let that be continued to be paid to them.

9. Writ petition, therefore, stands allowed so far as the order of reverting the petitioners back to the post of Salespersons are concerned. No order as to costs. Connected miscellaneous petition is closed.

27.07.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To
The Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode,
Namakkal District.



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C.V.KARTHIKEYAN,J.

ssm

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