



W.P.No.7855 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.7855 of 2016
and W.M.P.No.6997 of 2016

The Management,
Belur Karadipatti Primary Agriculture
Cooperative Credit Society Ltd.,
Kottavadi,
Salem District.

... Petitioner

Vs.

1.C.Marimuthu

2.The Presiding Officer,
Labour Court,
Salem.

... Respondents

Prayer : Writ Petition under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to passing of the award in C.P.No.3 of 2014 dated 24.08.2015 on the file of the second respondent - Labour Court, Salem and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner : Mr.K.Rajendiran
For Respondent-1 : Ms.Jayashree Narasimhan



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For Respondent-2 : Labour Court

ORDER

This is a petition filed by the petitioner seeking to quash the award dated 24.08.2015 in C.P.No.3 of 2014 on the file of the second respondent.

2. The facts leading to filing of this case are stated as hereunder :

(i) On 03.01.1990, the first respondent was initially appointed in the petitioner society as a salesman and was subsequently promoted as a fertilizer salesman from 11.5.1990. He retired from service on 30.11.2010.

(ii) In the computation petition filed before the second respondent, the first respondent claimed a total sum of Rs.6,89,104/-. However, the second respondent awarded a sum of Rs.55,499/-. According to the petitioner, as per the special by-laws, the first respondent would be entitled to encashment of earned leave salary only to the extent of 180 days and the same was paid to him. Therefore, he was estopped from claiming encashment of earned leave salary for a further period of 60 days. Further according to the petitioner, the first respondent has to approach the separate



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controlling authority for payment of balance gratuity and seek remedy.

(iii) Based on the erroneous award passed by the second respondent, the first respondent filed execution petition in R.E.P.No. 13 of 2016 seeking to enforce the award wherein the first respondent even obtained an order of arrest and also resulted in liquidation of the petitioner society itself. Hence the writ petition.

3. The learned counsel for the petitioner society submits that, though the first respondent is entitled to receive the gratuity amount and security deposit as ordered by the second respondent/Labour Court, however, he is not entitled for encashment of leave for further 60 days, since he retired from service on 30.11.2010. As per the bye-laws of the petitioner society at the relevant point of time, the first respondent is entitled for encashment of leave for 180 days and not 240 days. However, the Registrar vide circular dated 06.07.2012 introduced for grant of encashment of leave for 240 days, which can be applied prospectively and cannot be applied retrospectively. Accordingly, he prays for appropriate orders.



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4. The learned counsel appearing for the first respondent submits that, based on the circular issued by the Registrar dated 06.07.2012, the Labour Court has awarded encashment of leave in favour of the first respondent, which cannot be interfered with. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the first respondent and perused the materials available on record.

6. Admittedly, the first respondent retired from service on 30.11.2010. At the relevant point of time, he is entitled for encashment of leave for 180 days. Subsequently, the Registrar issued a Circular dated 06.07.2012, by which, the retired employees are entitled for encashment of leave for 240 days. However, in the present case, without discussing the letter dated 06.07.2012 and amended bye-laws of the petitioner society dated 10.01.2013, the Labour Court mechanically arrived at a conclusion



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that the first respondent is entitled for encashment of leave for 240 days, which is not sustainable and the same is contrary to the Registrar's Circular dated 06.07.2012 and clause (3) of the amended bye-laws.

7. It appears that already the petitioner society deposited a sum of Rs.29,814/- before the second respondent to the credit of the computation petition. In view of the fair stand taken by the learned counsel for the petitioner society that the workman is entitled to gratuity and security deposit, but would not be entitled to encashment of 60 days leave, which submission is just, reasonable and also acceptable both on law and facts, the second respondent is directed to disburse the gratuity amount to the tune of Rs.24,345/- and the security deposit to the tune of Rs.1,340/- to the first respondent within a period of four weeks from the date of receipt of a copy of this order. Further, the second respondent is directed to refund the balance amount to the petitioner society, which is lying in the credit of the computation petition, within a period of four weeks from the date of receipt of a copy of this order. However, the first respondent is not entitled to



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encashment of leave for 60 days.

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M.DHANDAPANI,J

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8. Accordingly, this writ petition is dismissed with the aforesaid directions. No costs. Consequently, the connected miscellaneous petition is also dismissed.

07.07.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order : Yes/No
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To

The Presiding Officer,
Labour Court,
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and
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