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W.A.No.3426/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 08-12-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.3426 of 2023

The Management,
Thuthikulam Primary Agricultural
Cooperative Bank Ltd.,
rep. by its Special Officer,
Thuthikulam Post,
Namakkal Taluk and District.

...

Appellant

-VS-

1.S.Srinivasan

2.The District Collector,
Salem.

3.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Salem – 7.

...

Respondents

Appeal under Clause 15 of the Letters Patent against the order, dated
03.11.2022, passed in W.P.No.31328 of 2005.



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For Appellant : Mr.M.Muthusamy

For Respondent 1 : No appearance

For Respondents 2 & 3 : Mr.A.Selvendran,
Spl.Govt.Pleader.

JUDGMENT

(By *S.Vaidyanathan,J.*)

This appeal has been filed challenging the order of the learned single Judge, dated 03.11.2022, passed in W.P.No.31328 of 2005.

2. Writ Petition was filed by the writ petitioner, first respondent employee herein, questioning the order of recovery, dated 16.06.2004, passed by the management, appellant herein. The management sought to recover the gratuity of Rs.32,227/- from the respondent employee on the ground that excess payment was made.

3. Admittedly, the employee retired from service on 29.02.2000. According to the management, entire amount has been paid, which is refuted by the employee on the ground that there was a 12 (3) Settlement subsequent to his retirement and the benefit of settlement was given effect from 01.07.1997 and that, in view of the revision, he would be entitled to gratuity on the revised pay. The management disputed the said fact stating that the employee did not work and, therefore, he is not entitled to claim any amount.



4. Aggrieved over the amount of gratuity, namely, the difference in amount of gratuity, the employee approached the Controlling Authority under the Payment of Gratuity Act, 1972, in short, "the Act", and the said Authority granted the relief. The said order has become final. The management has not preferred any appeal before the Appellate Authority under the Act.

5. Though, normally, Writ is not maintainable against a Cooperative Society, since the amount paid to the employee, which is sought to be recovered, falls within the meaning of Article 300-A of the Constitution of India, and that the same cannot be recovered except in accordance with law, this Court can very well interfere with the same under Article 226 of the Constitution of India.

6. In this case, the employee had the benefit of the order of the Controlling Authority under the Act. When that order has attained finality, benefit of the same has to be extended to the employee and that there cannot be any recovery.

7. The learned single Judge, while dealing with the issue, had come to the conclusion that the employee retired from service on 29.02.2000 and, after a period of four years, the impugned order was passed without any prior notice calling for the petitioner's objection for recovery of excess payment.



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8. Therefore, we find no reason to interfere with the impugned order of the learned single Judge. Writ Appeal stands dismissed accordingly. No costs. Consequently, the connected C.M.P.No.28087 of 2023 is closed.

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Internet : Yes/No
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(S.V.N.,J.) (K.R.S.,J.)
08-12-2023

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To

- 1.The District Collector,
Salem.
- 2.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
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