



W.P.Nos.25376 of 2022 & 21297 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.25376 of 2022 & 21297 of 2023

and

W.M.P.Nos.24357 of 2022 & 20700 of 2023

The Special Officer,
Gobichettipalayam Agriculture Producers Cooperative Society,
No.544, 36, Modachur Road,
Post Box No.8,
Gobichettipalayam.

... Petitioner in both WPs

Vs

P.Krishnan

... Respondent in both WPs

Prayer in W.P.No.25376 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the award passed by the Labour Court, Salem in C.P.No.15 of 2012 dated 22.11.2017 and quash the same.

Prayer in W.P.No.21297 of 2023 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the Docket order passed by the Labour Court, Salem dated 28.10.2022 in R.E.A.No.1 of 2022 in R.E.P.No.5 of 2022 in C.P.No.15 of 2012 and quash the same.

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W.P.No.25376 of 2022

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For Petitioner : Mr.Dhalapathy Vignesh Kumar
For Respondent : Mr.S.Bharanidharan

W.P.No.21297 of 2023

For Petitioner : Mr.L.P.Shanmugasundaram
For Respondent : Mr.S.Bharanidharan

COMMON ORDER

Since the issue involved in both the writ petitions are interconnected, with the consent of the learned counsel appearing for the parties, these writ petitions were heard together and disposed of by this common order.

2. The petitioner is a Cooperative society rendering service to its members to perform farming and the respondent joined in the petitioner society during the year 1981. Thereafter, he was promoted to the post of Junior Assistant. In 2006, the respondent along with the then Manager committed certain irregularities thereby causing financial loss to the petitioner society to the tune of Rs.25,16,560/-. Pursuant to that, the



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respondent was subjected to criminal prosecution. Parallely, departmental proceedings were also initiated by issuing a charge memo dated 18.06.2007.

An inquiry was ordered to be conducted and as a result, the respondent was dismissed from the services on 22.01.2008.

2.1. Challenging the said order of dismissal, the respondent preferred a revision before the Joint Registrar of Cooperative Societies, Erode, who, by order dated 31.05.2010, modified the punishment of dismissal and ordered for stoppage of increment for one year without prejudice to the criminal proceedings pending against him. The petitioner attained the age of superannuation on 28.02.2010. In addition to criminal prosecution and departmental proceedings, surcharge proceedings were also initiated subsequently and by order dated 09.02.2012, the Deputy Registrar of Cooperative Societies, Erode directed the respondent to pay a sum of Rs.5,51,000/- and Rs.3,05,276/-. Thereafter, the respondent filed a computation petition in C.P.No.15 of 2012 on the file of the Labour Court, Salem seeking payment of a sum of Rs.4,76,873/- towards back wages,



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earned leave encashment and bonus together with interest. By the impugned award dated 22.11.2017, the Labour Court, Salem allowed the petition directing the petitioner to pay the said sum of Rs.4,76,873/- together with 9% interest within two months. Aggrieved by that, the petitioner has filed W.P.No.25376 of 2022 before this Court.

2.2. During the pendency of the above said writ petition, the respondent filed an execution petition in R.E.P.No.5 of 2022 and on 01.07.2022, *ex-parte* order was passed. Thereafter, R.E.A.No.1 of 2022 was filed to set aside the *ex-parte* order and on 28.10.2022, the same was dismissed as cost was not paid. Therefore, the Labour Court issued arrest warrant as against the Managing Director of the petitioner society by way of a docket order. Challenging the same, the petitioner society filed W.P.No.21297 of 2023 before this Court.

3. The learned counsel appearing for the petitioner society submitted that the petitioner society has to necessarily pay the amount as per the award



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passed by the Labour Court dated 22.11.2017 in C.P.No.15 of 2012 to the tune of Rs.5,82,439/-. He also submitted that the petitioner society has deposited a sum of Rs.4,76,873/- before the Labour Court on 27.07.2023 in order to avoid the arrest proceedings and the balance amount to be paid to the respondent is Rs.1,05,566/-. Further, he submitted that, though the Labour Court awarded 12% interest, however, this Court may reconsider the same and pass appropriate orders.

4. The learned counsel appearing for the respondent/workman submitted that the original order of dismissal was passed by the petitioner society, against which, the respondent filed revision before the Joint Registrar of Cooperative Societies, Erode under Section 153(1) of Tamil Nadu Co-operative Societies Act and the revisional authority allowed the revision and imposed a punishment of stoppage of increment of one year without cumulative effect and the order has become final. Subsequently, the respondent superannuated, however, the petitioner society not paid the differential amount from the date of dismissal to till the date of



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superannuation, thereby, he filed a computation petition under Section 33(C)(2) of the Industrial Disputes Act, 1947. Since the petitioner society has come forward to pay the amount, this Court may pass appropriate orders.

5. The respondent/workman appeared before this Court and agreed to receive 6% interest from the date of award to till the date of deposit.

6. Considering the facts and circumstances of the case and in view of the consent view expressed by the learned counsel appearing for the parties, this Court is inclined to pass the following order :-

(i) the Labour Court, Salem is directed to disburse a sum of Rs.4,76,873/-, which has already been deposited by the petitioner society, to the respondent/workman, within a period of two (2) weeks from the date of receipt of a copy of this order;



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(ii) the petitioner society is directed to pay 6% interest from 22.11.2017 to 27.07.2023 for the amount Rs.4,76,873/-. Further, the petitioner society is also directed to pay the balance amount of Rs.1,05,566/- with 6% interest from 27.07.2023 to till the date of deposit.

7. With the above directions, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

11.09.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No
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To

The Presiding Officer,
Labour Court, Salem.



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M.DHANDAPANI,J.,

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