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W.P.Nos.14687 of 2017, 8 of 2018 & 24360 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.14687 of 2017, 8 of 2018 & 24360 of 2023

and

WMP.Nos.15930, 38347 & 38348 of 2017 and 23798 of 2023

The Management,
Tamil Nadu Co-operative Marketing Federation,
No.91, St. Mary's Road, Chennai – 600 018.

...Petitioner in W.P.Nos.14687 of 2017 & 24360 of 2023
and R2 in W.P.No.8 of 2018

Vs.

1. The Presiding Officer,
Labour Court,
Coimbatore.

...R1 in W.P.Nos.14687 of 2017 & 8 of 2018

2. K.K.Ramasamy

...R2 in W.P.No.14687 of 2017;
Petitioner in W.P.No.8 of 2018 &
Sole Respondent in W.P.No.24360 of 2023

Prayer in W.P.No.14687 of 2017: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the final award passed by the Labour Court, Coimbatore in I.D.No.24 of 2003 by its order dated 24.01.2017 and to quash the same.



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Prayer in W.P.No.8 of 2018: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 24.01.2017 made in I.D.No.24 of 2003 on the file of the 1st respondent and quash the same in so far as granting of compensation of Rs.3,00,000/- in lieu of back wages and attendant benefits are concerned and consequently direct the 2nd respondent to pay full back wages, revision of pay and all attendant benefits including retirement benefits to the petitioner.

Prayer in W.P.No.24360 of 2023: Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the order passed by the Principal Labour Court, Coimbatore in C.P.No.205 of 2017 by its order dated 20.04.2023 and to quash the same.

For Petitioner : Ms.P.Rajalakshmi
(in W.P.Nos.14687/2017 & 24360/2023)
: Mr.A.E.Ravichandran
(in W.P.No.8 of 2018)

For Respondents : Mr.A.E.Ravichandran,
(for R2 in W.P.No.14687 of 2017 &
for sole respondent in W.P.No.24360/2023)

COMMON ORDER

Since the issue involved in all these Writ petitions are interconnected, they are disposed of by way of this common order.

2. For brevity, the petitioner in W.P.Nos.14687 of 2017 & 24360 of 2023 and the 2nd respondent in W.P.No.8 of 2018 shall hereinafter be



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referred to as management. The 2nd respondent in W.P.No.14687 of 2017, the sole respondent in W.P.No.24360 of 2023 and the petitioner in W.P.No.8 of 2018 shall hereinafter be referred to as workman.

3. The facts leading to filing of these cases are as follows :

The workman was employed as an Assistant in F4 Section in the Regional Office of the management and at the relevant point of time, as per the office order dated 20.9.1997, he was deputed to Pollachi Buffer Godown to assist the godown keeper from 22.9.1997 to 29.9.1997 for movement of fertilizers. When the officers of the Regional Office of the management inspected the Pollachi Godown as of routine, they found that on 25.09.1997, the workman along with the godown keeper and the contractor, had misappropriated fertilizers to the tune of Rs.31 lakhs by failing to make relevant entries in the stock registers thereby causing loss to the management to the tune of Rs.4,25,136/-. Even in the letter dated 25.9.1997 given by the workman and in the work done report dated 30.09.1997, the workman failed to report about the receipt of 113 Mts of fertilizers. Therefore, a charge memo dated 05.1.1998 came to be issued by the



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management and pursuant to which inquiry was conducted on 09.2.2000

and after conclusion of the inquiry, the Enquiry Officer gave a report holding the charges as proved and subsequently, he was dismissed from service by order dated 20.12.2000. Challenging the said order of dismissal, the workman filed a statutory appeal before the Special Officer on 20.2.2001 and it was also dismissed by order dated 17.8.2002. Thereafter, the workman filed an industrial dispute before the Labour Court, Coimbatore in I.D.No.24 of 20033 seeking to set aside the order of dismissal and to direct the management to reinstate him with back wages, continuity of service and all other attendant benefits. Ultimately, the Labour Court, Coimbatore, by the impugned award dated 24.1.2017, directed the management to pay a sum of Rs.3 lakhs to the workman towards compensation in lieu of reinstatement, back wages and other attendant benefits. Challenging the award of compensation, the management filed WP.No.14687 of 2017. In turn, the employee filed W.P.No.8 of 2018 seeking to quash the award in so far as granting of compensation of Rs.3,00,000/- in lieu of back wages and attendant benefits were concerned and to direct the management to pay full back wages, revision of pay and all



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attendant benefits including retirement benefits to him. In the mean time, the workman filed a computation petition in C.P.No.205 of 2017, seeking to direct the management to pay a sum of Rs.3,07,875/- together with future interest at the rate of 9% per annum on Rs.3 lakhs till the date of payment and the Principal Labour Court, Coimbatore, by the order dated 20.04.2023, allowed the said computation petition and directed the management to pay the workman a sum of Rs.3 lakhs together with 9% interest per annum. Challenging the same, the management has filed W.P.No.24360 of 2023.

4. Learned counsel appearing for the management submitted that, the workman along with other accused persons misappropriated 113 tonnes of fertilizers worth about Rs.31 lakhs and though the said misappropriation committed by the workman was established before the Labour court by examining witnesses MW1 to MW3 and by marking various documents Ex.M1 to M20, however, without taking into consideration any of the same, the labour court, awarded compensation of Rs.3 Lakhs in favour of the workman, which is not sustainable.



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5. Learned counsel appearing for the workman submitted that, though the labour court held that the domestic enquiry was not conducted in fair and proper manner, which is a clear violation of principles of natural justice and the findings of the enquiry officer are not proper and thereby the order of dismissal passed against the workman is illegal and the workman is entitled for back wages and passed a preliminary award in favour of the workman, however, solely on the ground that the workman attained the age of superannuation as early as on 31.05.2013, the labour court, vide impugned award dated 24.01.2017, fixing a compensation of Rs.3 Lakhs in lieu of reinstatement, back wages and other attendant benefits, which is not sustainable and the labour Court had miserably failed to see that the workman was out of employment from 20.12.2000 till 31.05.2013 and once the order of dismissal is found to be illegal, the workman is entitled for back wages during the non-employment period, while so, without awarding back wages, awarding a meagre compensation of Rs.3 Lakhs is not sustainable. Further, the workman examined himself before the labour court and also submitted the Goods receipt note dated 25.09.1997 to show the receipt of goods received by him on the said alleged date of occurrence of



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misappropriation and from which it is evident that, there is no deficit of goods or fertilisers in the godown and the workman had not involved in any kind of misappropriation. Accordingly, he prayed for appropriate orders.

6. Heard the learned counsel appearing for the management and the learned counsel appearing for the workman and perused the material documents placed on record.

7. Admittedly, the workman was employed as a Junior Assistant in the management society at Coimbatore and for certain alleged misconduct, he was subsequently dismissed from service, by order dated 20.12.2000.

8. Though the workman claims that he has not involved in the alleged misappropriation and seeks payment of back wages, however, except Ex.W1, the goods receipt note no other documents were submitted by him to prove his innocence.

9. It is not disputed that, the preliminary issue was decided as against the management and it was held that the domestic enquiry was not



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conducted in fair and proper manner and under such circumstances, the management cannot rely upon the findings of the domestic enquiry to prove the alleged misconduct committed by the workman. It is equally not disputed that, during the pendency of the dispute, on 31.05.2013, the workman had attained superannuation and in such case, ordering for reinstatement is not possible.

10. Hence, the Labour court, after taking into consideration the fact that the dispute was pending from the year 2003 and that the workman attained the age of superannuation in the year 2013, in order to strike balance in between the parties, awarded a compensation of rs.3,00,000/- in favour of the workman instead of awarding back wages and other attendant benefits, in which, this Court, does not finds any fault with and is not inclined to interfere with the same.

11. Insofar as the order of the Principal labour Court dated 20.04.2023 made in C.P.No.205 of 2017, directing the management to pay the workman a sum of Rs.3,00,000/- with 9% interest per annum from the



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date of notification of award i.e., 23.02.2017 is concerned, in view of the fact that the award pertains to the year 2017, award of interest at 9% is on the higher side and this Court feels that interest at the rate of 6% would be just and reasonable. Accordingly, this Court directs the management to pay the workman a sum of Rs.3,00,000/- with 6% interest per annum from the date of award i.e., 24.01.2017 till the date of payment of the said amount.

12. With the above modifications and directions, the Writ petitions in W.P.Nos.14687 of 2017 and 8 of 2018 filed by the management and the workman respectively stand dismissed and W.P.No.24360 of 2023 stands disposed of in the above terms. No costs. Consequently, the connected Miscellaneous petitions are closed.

29.08.2023

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



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WEB COPY To

1. The Presiding Officer,
Labour Court, Coimbatore.
2. The Principal Labour Court,
Coimbatore.



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M.DHANDAPANI, J.

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