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W.P.(MD)No.6772 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.6772 of 2013

and

M.P.(MD)No.1 of 2013

The Management,
Tirunelveli Central Co-operative Bank Limited,
Vannarpettai, Tirunelveli,
represented by its General Manager.

... Petitioner

vs.

- 1.The Presiding Officer,
Labour Court,
Tirunelveli.
- 2.General Secretary,
Tirunelveli District Central Co-operative
Bank Employees Union,
23/Tirunelveli "Narayaanam Illam",
7, Nadu Theru, Sindhupoonthurai,
Tirunelveli-1.
- 3.A.Arunachalam (Died)



W.P.(MD)No.6772 of 2013

WEB COPY

4.A.Eshwari
5.A.Azhagiya Nambi
6.A.Chidambara Nathan
7.A.Valarmathi

... Respondents

*(R4 to R7 substituted, vide order, dated
29.03.2023, in W.M.P.(MD)No.5915 of 2023,
in W.P.(MD)No.6772 of 2013)*

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned award, dated 21.04.2010 (received on 25.11.2011), passed by the 1st respondent in I.D.No.30 of 1996 and to quash the same as illegal.

For Petitioner : Mr.M.E.Ilango
For R1 : Labour Court
For R2 : No appearance

ORDER

This writ petition is filed for issuance of a writ of Certiorari, to quash the impugned award in I.D.No.30 of 1996, dated 21.04.2010, passed by the 1st respondent.



W.P.(MD)No.6772 of 2013

WEB COPY

2. The contention of the petitioner is that the deceased 3rd respondent was working under the 2nd respondent. The employees who were working under the said Society were decided to be absorbed in the petitioner Central Co-operative Bank Limited. The petitioner Bank has absorbed 17 employees but failed to absorb 2 employees because they did not possess any qualification. Hence, the 2nd respondent raised an Industrial Dispute on behalf of the 3rd respondent. In the Industrial Dispute, the Labour Court has recorded the statement of the petitioner Bank that the deceased 3rd respondent was not possessing any qualification and hence, the 3rd respondent cannot be absorbed.

3. In the meanwhile, the 3rd respondent has also attained superannuation on 31.05.2005. In spite of the same, the Labour Court has directed to absorb the 3rd respondent and pay 50% of the monetary benefits like salary and other attendant benefits to the 3rd respondent.



W.P.(MD)No.6772 of 2013

Aggrieved over the said order, the petitioner Bank has filed the present writ petition.

4. If the 3rd respondent is not possessing any qualification to be absorbed in any sanctioned post, the 3rd respondent cannot be absorbed.

5. The learned Counsel appearing for the petitioner submitted that the deceased 3rd respondent was working in some other Society and was receiving salary. After retirement, he had received terminal benefits, gratuity and other benefits as well. Therefore, when the 3rd respondent is gainfully employed in some other society, then the 3rd respondent may not be entitled to absorption in the petitioner society. However, the 3rd respondent is entitled to some compensation for the non-employed period. The petitioner Bank and the 2nd respondent are directed to pay Rs. 50,000/- as compensation to the 3rd respondent.



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W.P.(MD)No.6772 of 2013

6. Pending writ petition, it is submitted that the 3rd respondent died and the legal heirs of the 3rd respondent are substituted as respondents 4 to 7. The said compensation amount shall be paid to the substituted legal heirs.

7. With the above said observation, the writ petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No

29.03.2023
(2/2)

Tmg

To

The Presiding Officer,
Labour Court,
Tirunelveli.



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W.P.(MD)No.6772 of 2013

S.SRIMATHY, J

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W.P.(MD)No.6772 of 2013

29.03.2023
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