



W.P.(MD)Nos.7649 and 7652 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.7649 and 7652 of 2020

and

W.M.P(MD)Nos.7145 to 7148 of 2020

The Management,
Virudhunagar District Central Co-operative Bank Limited,
Rep. by its Managing Director/Joint Registrar,
No.104/1, Madurai Road,
Virudhunagar. ... Petitioner in both W.Ps
Vs.

V.Thiruvengada Ramanujam
... Respondent in W.P(MD)No.7649 of 2020

T.Nammalvar ... Respondent in W.P(MD)No.7652 of 2020

Common Prayer:Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the impugned orders passed in C.P.No.35 of 2016 dated 18.10.2019 and in C.P.No.36 of 2016, dated 10.01.2020 respectively, passed by the Labour Court, Madurai and quash the same.



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W.P.(MD)Nos.7649 and 7652 of 2020

(In both Cases)

For Petitioner

: Mr.D.Shanmugarja Sethupathi

For Respondent

: No Appearance

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, the writ petitions are disposed of by way of this common order.

2. The Writ petitions have been filed to quash the impugned orders passed by the Labour Court, Madurai in C.P.No.35 of 2016, dated 18.10.2019 and in C.P.No.36 of 2016, dated 10.01.2020 respectively.

3. The petitioner is Virudhunagar District Central Cooperative Bank registered under the Tamil Nadu Cooperative Societies Act. The respondents were working as Manager and they attained the age of superannuation on 31.03.2008 and 31.07.2005 respectively. Subsequently, they were paid with retirement benefits. While being so, the management recovered a sum of Rs.66,240/- and Rs.61,412/- respectively from their benefits, stating that when the respondents were working as Branch Managers in the respective branches namely in



W.P.(MD)Nos.7649 and 7652 of 2020

WEB COPY

Virudhunagar Main Branch and Thiruthangal & Satchiyapuram Branches, they had granted loans such as Jewel loan and Women Self Help Group Loan to various persons, however, had not taken any follow up action for recovery. At the time of retirement, the petitioners executed a letter of undertaking stating that they would make good the loss sustained by the bank, if during inspection it is found that there was loss or irregularities. As per the letter of undertaking, the respondents are liable to repay the loss sustained by the bank on account of dereliction of duty. While the matter stood thus, the respondents filed claim petitions before the Labour Court, Madurai, claiming Group Saving Linked Insurance and earned leave encashment respectively with interest, wherein the Labour Court, Madurai, ordered to pay the amount with interest. Challenging the same, the petitioner bank has filed these writ petitions with the aforesaid prayer.

4. The learned counsel appearing for the petitioner would submit that as per the Special bye-laws of the society, the petitioner bank is authorized to recover the loss sustained by the bank and the bye-laws



W.P.(MD)Nos.7649 and 7652 of 2020

WEB COPY

clearly mandates that every employee of the bank should make good the loss sustained by the bank on account of dereliction of duty and therefore, the respondents are liable to pay the loss incurred by the bank. Further, in the present case, the respondent themselves had given an undertaking at the time of retirement to make good the loss sustained by the bank. Pursuant to the same, the amount was deducted from the benefits of the respondents and contrary to the undertaking given, the Labour Court, has passed the award in favour of the respondents, which is not sustainable one and hence, prays for allowing of these writ petitions.

5. Heard the learned counsel appearing for the petitioner and perused the materials placed before this Court.

6. Though notice was served, the respondents have not chosen to appear before this Court.



W.P.(MD)Nos.7649 and 7652 of 2020

WEB COPY

7. Considering the pendency of the writ petitions, this Court is inclined to disposed of these writ petitions on merits.

8. Admittedly, the respondents worked in the petitioner bank and on attaining the age of superannuation, they retired from service. Thereafter, the respondents raised industrial dispute before the Labour Court as if they have not been disbursed with Group Saving Linked Insurance and earned leave encashment respectively in C.P.Nos.35 and 36 of 2016.

9. In order to substantiate the claim, the respondents examined themselves as P.W.1 and marked three documents and on the side of the bank, the Manager of the bank was examined and no document was marked on their side.

10. This Court perused the awards passed by the Labour Court. On perusal of the awards, it is seen that the Labour Court arrived at a conclusion on the ground that while the respondents were in service, the



W.P.(MD)Nos.7649 and 7652 of 2020

WEB COPY

bank had not taken any steps either under surcharge proceedings or initiate any disciplinary proceedings for recovery of the amount. Further, there is a procedure available in the bye-laws for recovery of the amount by initiating appropriate proceedings. However, in the present case, it is not the case of the petitioner bank that the respondents misappropriated the bank amount by way of fraud or misrepresentation. The allegation made against the respondents is that they have advanced loan amount to the borrowers and to the Women Self Help Group and had not taken any follow up action for the recovery. However, the said loans advanced to the borrowers can be recovered by invoking appropriate proceedings, but without initiating appropriate proceedings for recovery of the loan amount from the borrowers, deducting the amount from the respondents is not sustainable one. Moreover, the respondents had executed a letter of undertaking only for recovery of loss sustained by the bank at the instance of the respondents. Further, the petitioner bank did not take any action while the respondents were in service and further, there is no employer and employee relationship between the petitioner and the respondents and hence, there is no irregularity or infirmity in the awards



W.P.(MD)Nos.7649 and 7652 of 2020

passed by the Labour Court and hence, the same need not be interfered with.

11. In the result, these writ petitions are dismissed. The petitioner bank is directed to implement the award of the Labour Court within a period of six weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

06.01.2023

PM

NCS:Yes/No

Index:Yes/No

Internet:Yes/No

To:

The Presiding Officer,
Labour Court,
Madurai.



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W.P.(MD)Nos.7649 and 7652 of 2020

M.DHANDAPANI, J.

pm

W.P.(MD)Nos.7649 and 7652 of 2020

06.01.2023