



W.P(MD)No.7653 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7653 of 2020

and

W.M.P.(MD)Nos.7149 & 7152 of 2020

The Management
Virudhunagar District Central Cooperative Bank Limited,
Rep. By its Managing Director / Joint Registrar,
No.104/1, Madurai Road,
Virudhunagar.

... Petitioner

Vs.

K.Ganapathy

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed in C.P.No.38 of 2016, dated 10.01.2020 by the Labour Court, Madurai and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondent : Mrs.M.Nandini Priyadarshini



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ORDER

Heard the learned counsel on either side.

2. The Management of the Cooperative Bank is the writ petitioner herein. The petitioner challenges the impugned order dated 10.01.2020 made in C.P.No.38 of 2016 on the file of the Labour Court, Madurai. By the impugned order, the Management has been directed to pay a sum of Rs.36,860/- towards earned leave salary and group savings life insurance amount. Interest has also been awarded. The primary ground on which challenge has been mounted is that the claimant is not a workman.

3. The learned counsel appearing for the petitioner draws my attention to the definition set out in Section 2(s) of the Industrial Disputes Act, 1947 and points out that the respondent was employed as manager which is in supervisory capacity and that he was earning more than Rs.21,000/- and that therefore, the Labour Court did not have jurisdiction to even entertain the claim petition. He also would point out that the respondent by sanctioning ineligible loans had caused loss to the society and that therefore, the Management was entitled to set off the said amount from what is payable to him. The stand of the



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Management is that special byelaws permit such deduction to be made. He also reiterated all the other contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. I am not able to accept the submission advanced by the learned counsel appearing for the petitioner. The Hon'ble Supreme Court of India as well as this Court had held that the Labour Court will have the jurisdiction to adjudicate the service disputes between a cooperative society and its employees. There is no bar. However, the claimant will have to satisfy that he is a workman within the meaning of Section 2(s) of the Industrial Disputes Act, 1947. To disqualify a person from invoking the labour Court's jurisdiction, two conditions will have to be met.

(i) He has to be in supervisory capacity and

(ii) He should be drawing wages in excess of Rs.10,000/-.

In this case, the respondent was earning salary in excess of Rs.10,000/- . Therefore, the second condition is met. It is also pointed out that the claimant was working as manager and therefore, this Court ought to infer that he was working in a supervisory capacity.

5. I am not persuaded by this argument. It is well settled that nomenclature or designation of the post by itself cannot lead to the conclusion



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that the person concerned was engaged in a supervisory capacity. This is essentially a question of fact. The Management has not taken this plea before the Labour Court. As rightly pointed out by the learned counsel appearing for the respondent, the special byelaws were also not produced. If a pure question of law having jurisdictional implications is raised, this Court is obliged to consider the same. In this case, it is a mixed question of law and fact. Since this plea has not been raised before the Court below, this Court declines to go into the issue.

6. In the case on hand, the Management has not questioned the jurisdiction of the Labour Court by contending that the respondent was not a workman. Having failed to contest the jurisdictional issue before the Court below, I decline to permit the management to raise the issue for the first time before this Court. That apart, the amount directed to be paid is only a sum of Rs.36,860/-. I wanted to know from the learned counsel appearing for the petitioner if any independent enquiry was held against the employee and formal order was passed quantifying the loss said to have been caused by the Management to him. It is fairly admitted that there is only a file noting in this regard. An independent enquiry was not held. For these three reasons, I decline to interfere.



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7. The order impugned in the writ petition is sustained. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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G.R.SWAMINATHAN, J.

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