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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.511 of 2014

P.Kumaresan ...Appellant

/Vs./

1.The Registrar of Cooperative Societies,
E.V.R.Road, Chennai.

2.The Joint Registrar of Cooperative Societies,
Madurai, Madurai District.

3.The Special Officer,
A-2478, Melur Agricultural Producers
Co.op. Marketing Society Ltd.,
Melur, Madurai District.

4.S.Nagasubramanian

5.C.Chellapandian

6.M.Ananthan

7.M.Nazeer

8.K.Selvam

9.R.Selvaraj

10.M.Sathuragiri ...Respondents

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PRAYER:- Writ Appeal - filed under Clause XV of Letters Patent Act, to set aside the order dated 30.09.2010 passed in W.P.(MD)No.13343 of 2009 on the file of this Court.

For Appellant : Mr.K.Mahendran
For Respondents : Mr.Amjad Khan (R1 & R2)
Government Advocate
Mr.S.Kumar (R3)
No appearance (R4 & R6)
M/s.Vennila
for Mr.S.M.P.Amalan (R7 & R8)
R5 & R10 – Died.

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.)**

This writ appeal has been filed by P.Kumaresan, who was the 4th petitioner in WP(MD)No.13343 of 2009. That writ petition along with other writ petitions filed by similarly placed persons came to be disposed on 30.09.2010.

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2. The petitioners had challenged orders passed by the Special Officers of Cooperative Societies seeking reliefs of differing nature in regard to the same. The prayer in WP(MD)No.13343 of 2009, as relevant to this writ appeal was for a mandamus directing the Special Officer of A-2478 Melur Agricultural Producers Cooperative Marketing Society Limited (In short 'Society') to implement order of regularization dated 29.11.1996, based on proceedings of the Registrar and the Joint Registrar of the Cooperative Societies, dated 28.12.1994 and 11.08.1995 respectively, and as a consequence, grant all attendant benefits to the writ petitioners.

3. All the writ petitions had been dismissed by the Writ Court observing that such dismissal would not disentitle the petitioner from approaching the appropriate fora for getting their grievances settled. It is as against that order that the present writ appeal has been filed.

4. It is brought to our attention that a claim petition had been filed by one of the co-writ petitioners in W.P.(MD)No.13343 of 2009,

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one K.Selvam (6th writ petitioner in that writ petition), in terms of Section 33C(2) of the Industrial Disputes Act, 1947 that had been dismissed by the Labour Court stating that there was no pre-existing right, or settlement or award on the basis of which he could claim settlement.

5. The appellant had joined as a Packer in the Society on 01.08.1981 on daily wages. His duties had been regularized by orders of the Registrar dated 28.12.1994 and of the Joint Registrar dated 11.08.1995. The documents available before this Court indicate that the writ petitioner had been receiving pension from the Employees Provident Fund Organization on superannuation.

6. Under the Special Bye-Laws dated 31.01.1981 relating to service conditions issued by the Cooperative Societies, the qualification for the post of Packer is a pass in VI Standard or I Form. According to the appellant, he satisfies this qualification. To this effect, he has produced his service book evidencing that his qualification was a VII

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standard pass in the year 1972. Seeing as the prayer of the petitions was for a mandamus, the facts as necessary to grant such a prayer must be undisputed and available in full.

7. The Writ Court has protected the rights of the writ petitioners stating expressly that the dismissal of their writ petitions would not disentitle them from approaching appropriate fora seeking their relief and one of the co-writ petitioners has rightly approached the labour Court seeking required relief.

8. We are, in the course of hearing given to understand, albeit tentatively, that the present appellant is also before the Labour Court seeking identical relief. It would thus be appropriate to permit him to pursue that petition rather than pursue an order from this Court.

9. Hence, we permit the appellant to file an application under Section 33C(2) of the Industrial Disputes Act, 1947, if not already filed, within a period of four weeks from the date of receipt of a copy of this

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order and such application shall be disposed by the Labour Court expeditiously in any event, within a period of eight weeks from date of receipt of this order / institution of the application as permitted supra. This Writ Appeal stands disposed in terms of this order. No costs.

[A.S.M.J.,] & [R.V.J.,]
13.07.2023

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

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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Judgment made in
W.A.(MD)No.511 of 2014

Dated:
13.07.2023

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